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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

A COLLECTION

OF

STATUTES RELATING TO INDIA.

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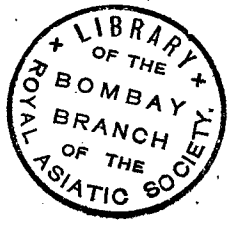
IN TWO VOLUMES.

VOL. II.

1856 to 1881.



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A COLLECTION

OF

STATUTES IN FORCE IN INDIA.

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19 & 20 VICTORIA. A. D. 1856.

CHAPTER CXIII.

An Act to provide for taking Evidence in Her Majesty's Dominions in relation to Civil and Commercial Matters pending before Foreign Tribunals.

[*29th July 1856.*]

WHEREAS it is expedient that facilities be afforded for taking evidence in her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Any court or judge having authority under this Act may make an order for the examination of witnesses in relation to any civil or commercial matter pending before a foreign tribunal.

1. WHERE, upon an application for this purpose, it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in a foreign country, before which any civil or commercial matter is pending, is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first-mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination upon oath, upon interrogatories or otherwise, before any person or persons named in such order, of such witness or witnesses accordingly; and it shall be lawful for the said court or judge, by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order, for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the

time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just; and any such order may be enforced in like manner as an order made by such court or judge in a cause depending in such court or before such judge.

Certificate of ambassador, &c. sufficient evidence in support of application.

2. A CERTIFICATE under the hand of the ambassador, minister, or other diplomatic agent of any foreign power, received as such by her Majesty, or in case there be no such diplomatic agent, then of the consul general or consul of any such foreign power at London, received and admitted as such by her Majesty, that any matter in relation to which an application is made under this Act is a civil or commercial matter pending before a court or tribunal in the country of which he is the diplomatic agent or consul having jurisdiction in the matter so pending, and that such court or tribunal is desirous of obtaining the testimony of the witness or witnesses to whom the application relates, shall be evidence of the matters so certified; but where no such certificate is produced, other evidence to that effect shall be admissible.

Other evidence admissible.

Examination of witnesses to be taken upon oath.

3. IT shall be lawful for every person authorized to take the examination of witnesses by any order made in pursuance of this Act to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized; and if upon such oath or affirmation any person making the same wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury.

Persons giving false evidence to be guilty of perjury.

Payment of expenses of witnesses.

4. PROVIDED always, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial.

Persons to have right of refusal to answer questions and to produce documents, as in causes pending before the court, &c. ordering the examination.

5. PROVIDED also, that every person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a witness in any cause pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain courts and judges in the United Kingdom and the colonies shall have authority under this Act.

Lord Chancellor, &c. to frame rules, &c.

6. HER Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who by any Order of her Majesty in Council may be appointed for this purpose, shall respectively be courts and judges having authority under this Act: Provided, that the Lord Chancellor, with the assistance of two of the judges of the

Courts of Common Law at Westminster, shall frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

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20 & 21 VICTORIA. A. D. 1857.

CHAPTER XXXIX.

An Act to regulate the Admission of Attornies and Solicitors of Colonial Courts in Her Majesty's Superior Courts of Law and Equity in England, in certain Cases. [*17th August 1857.*]

WHEREAS in certain of Her Majesty's colonies and dependencies, including certain parts of the territories under the government of the East India Company, the system of jurisprudence is founded on or assimilated to that administered in England, and the attornies and solicitors of the Superior Courts of Law and Equity in England are admitted as attornies and solicitors in the courts of law and equity of such colonies and dependencies, on production of their certificates of admission in the English courts aforesaid; and it is considered just and expedient to afford facilities to the attornies and solicitors of the Superior Courts in certain colonies and dependencies for obtaining admission in Her Majesty's courts of law and equity in England: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may for all purposes be cited as "The Colonial Attornies Relief Act."

When Act to come into operation.

2. THIS Act shall not take effect in any one or more of Her Majesty's colonies or dependencies until Her Majesty has, by Order in Council, to be made as herein-after mentioned, directed the same to come into operation in respect to such colony or dependency.

Attornies and solicitors of colonial courts to be admitted to courts of law and equity in England.

3. ALL persons who, being subjects of the British Crown, have been or shall hereafter be duly admitted and enrolled as attornies and solicitors in the Superior Courts of Law and Equity in those of Her Majesty's colonies or dependencies where the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in England, and where full service under articles of clerkship to an attorney-at-law for the space of five years at the least, and an examination to test the qualification of candidates, are or may be required previous to such admission, save only in the case of persons previously admitted as attornies or solicitors in the Superior

Courts of Law or Equity in England, such colonies or dependencies to be from time to time specified in and by Order in Council, as herein-after provided, shall and may be admitted and enrolled attornies in all or any of the Courts of Queen's Bench, Common Pleas, and Exchequer, and other courts in England, and solicitors in the High Court of Chancery in England, subject as herein-after provided.

No person to be deemed qualified unless he shall pass an examination, and produce a certificate from the judge of the court where he was admitted.

4. No person shall be deemed qualified to be admitted as attorney or solicitor under the provisions of this Act, unless he shall pass such examination to test his fitness and capacity as herein-after provided, and shall produce at such examination a certificate from the presiding judge of the Superior Court of Common Law in the colony or dependency where such person shall have been duly admitted an attorney and solicitor, and stating the amount of the stamps which have been paid by such person on his articles of clerkship and admission to practise in such colony, in the form or to the effect as contained in schedule (A.) hereunto annexed, and shall further make affidavit (in such manner as shall be provided by order or regulation to be made by the judges of the Superior Courts of Common Law, and the Master of the Rolls respectively, as herein-after provided,) that he is resident within the jurisdiction of the said Superior Courts of Law and Equity in England, and that he has ceased, for the space of twelve calendar months at the least, to practise as attorney or solicitor in any colonial court of law.

Judges of Courts of Common Law and Master of the Rolls to appoint examiners, &c.

5. It shall be lawful for the judges of the Courts of Queen's Bench and Common Pleas and Exchequer, or any three or more of them, as and when any person shall, under the provisions of this Act, seek to be admitted as an attorney, and not as a solicitor also, and for the Master of the Rolls, as and when any person shall seek as aforesaid to be admitted as a solicitor, and not as an attorney also, and for the said judges or any three or more of them, and the Master of the Rolls, jointly, when any person shall seek as aforesaid to be admitted as an attorney and solicitor, and he and they are hereby authorized and required, at any time before he and they shall admit or issue a fiat for the admission of any such person as aforesaid, to examine and inquire by such ways and means as he or they shall think proper touching the qualification and the fitness or capacity of such person to act as an attorney or solicitor, or as an attorney and solicitor; and for that purpose it shall be lawful for him or them, from time to time as application for admission as aforesaid shall be made, to appoint such persons as examiners, and to make such orders and regulations for conducting such examination, as he or they shall think proper; and if by any such examination any of the judges of the said Courts of Common Law shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as an attorney, then, and not otherwise, any

one of the said judges shall and he is hereby authorized and required to administer or cause to be administered to such person the oaths by law required to be administered to attornies in England, and after such oaths taken to cause him to be admitted an attorney of such Courts, which admission shall be written on parchment, and signed by such judge, and shall be stamped with the stamps after mentioned; and if by such examination the Master of the Rolls shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as a solicitor, then, and not otherwise, he is hereby authorized and required to administer or cause to be administered to such person the oaths by law required to be taken, and to cause him to be admitted a solicitor in the Court of Chancery, and his name to be enrolled as a solicitor of such Court, which admission shall be written on parchment, and signed by the Master of the Rolls, and shall be stamped with the stamps after mentioned.

Stamp duties on admissions.

6. The admission of any person as an attorney or solicitor under the provisions of this Act shall be stamped with the stamps by law required to be impressed on the admission of attornies or solicitors in England (as the case may be); and the admission first obtained shall be impressed with such further stamp as shall, together with the amount of stamps paid on articles of clerkship and admission in the colony (to be ascertained as herein-after provided), be equal in amonnt to the sum by law payable on articles of clerkship in England.

* * * * * * * * *

SCHEDULE (A.)

To all whom it may concern, I, [*name and style of judge*], do hereby certify, that [*terms of certificate of admission granted to the attorney in the colony*], and that the said [*attorney's name*] is now duly enrolled as an attorney-at-law and solicitor in this colony, and entitled to practise as such; and further, that no charge or accusation has been established or is pending against the said [ ] in such his professional character or otherwise affecting his fair fame and repute. And I find that the sum of £ was paid on articles of clerkship when the said was articled, and the sum of £ on the certificate of admission when he was admitted to practise as aforesaid. [*To be signed and attested in the manner usual in other certificates granted by the judge.*]

21 & 22 VICTORIA. A. D. 1858.

CHAPTER LV.

An Act to revive and continue an Act amending the Act for limiting the Time of Service in the Army. [*23rd July 1858.*]

18 & 19 Vict. c. 4.

WHEREAS by an Act of the session holden in the eighteenth and nineteenth years of Her Majesty, chapter four, "to amend the Act for limiting the time of service in the army," it was enacted that for three years after the passing of the Act now in recital any person might be enlisted to serve Her Majesty or in the forces of the *East India* Company as a soldier for any such term not exceeding ten years in the infantry or twelve years in the cavalry or artillery or other ordnance corps as might be authorized by any order or orders of Her Majesty in council in that behalf: And whereas it is expedient to revive and continue the said Act: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Act revived and continued.

1. THE said Act of the eighteenth and nineteenth years of Her Majesty shall continue in force as if six years after the passing of the said Act had been mentioned therein instead of three years, and shall be deemed and taken to have had effect accordingly, to all intents and purposes, as if this Act had actually passed before the expiration of the said term of three years.

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21 & 22 VICTORIA. A. D. 1858.

CHAPTER LXX.

An Act to amend the Act of the Fifth and Sixth Years of Her present Majesty, to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture. [*2nd August 1858.*]

5 & 6 Vict. c. 100.

WHEREAS by an Act passed in the fifth and sixth years of the reign of Her present Majesty, intituled "An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture," herein-after called "The Copyright of Designs Act, 1842," there was granted to the proprietor of any new and original design in respect of the application of any such design to ornamenting any article of manufacture contained in the tenth class therein mentioned, with the exceptions therein mentioned, the sole right to apply the same to any articles of manufacture, or any such substances as therein mentioned, for the term of nine calendar months, to be

computed from the time of such design being registered according to the said Act: And whereas it is expedient that the term of copyright, in respect of the application of designs to the ornamenting of articles of manufacture comprised in the said tenth class, should be extended, and that some of the provisions of the said Act should be altered, and that further provision should be made for the prevention of piracy, and for the protection of copyright in designs under the Acts in the schedule hereto annexed, and herein-after called "The Copyright of Designs Acts": Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

Short title.

1. In citing this Act for any purpose whatsoever it shall be sufficient to use the expression "The Copyright of Designs Act, 1858."

Acts to be construed together.

2. The said Copyright of Designs Acts and this Act shall be construed together as one Act.

Extension of term of copyright as to the tenth class mentioned in 5 & 6 Vict. c. 100.

3. In respect of the application of any new and original design for ornamenting any article of manufacture contained in the tenth class mentioned in "The Copyright of Designs Act, 1842," the term of copyright shall be three years, to be computed from the time of such design being registered, in pursuance of the provisions of "The Copyright of Designs Acts," and of this Act: Provided nevertheless, that the term of such copyright shall expire on the thirty-first of December in the second year after the year in which such design was registered, whatever may be the day of such registration.

Exemption from provisions of 5 & 6 Vict. c. 100. s. 4.

4. Nothing in the fourth section of "The Copyright of Designs Act, 1842," shall extend or be construed to extend to deprive the proprietor of any new and original design applied to ornamenting any article of manufacture contained in the said tenth class of the benefits of "The Copyright of Designs Acts," or of this Act: Provided there shall have been printed on such articles at each end of the original piece thereof the name and address of such proprietor, and the word "registered," together with the years for which such design was registered.

Pattern may be registered.

5. And be it declared, that the registration of any pattern or portion of an article of manufacture to which a design is applied, instead or in lieu of a copy, drawing, print, specification, or description in writing, shall be as valid and effectual to all intents and purposes as if such copy, drawing, print, specification, or description in writing had been furnished to the registrar under "The Copyright of Designs Acts."

Proprietor to give the number and date of regis-

6. The proprietor of such extended copyright shall, on application by or on behalf of any person producing or vending any article of manufacture so marked, give the number and the date of the registration of any article of

tration, on application.

manufacture so marked; and any proprietor so applied to, who shall not give the number and date of such registration, shall be subject to a penalty of ten pounds, to be recovered by the applicant, with full costs of suit, in any court of competent jurisdiction.

Penalty for wrongful use of registration mark.

7. ANY person who shall wilfully apply any mark of registration to any article of manufacture in respect whereof the application of the design thereto shall not have been registered, or after the term of copyright shall have expired, or who shall, during the term of copyright, without the authority of the proprieror of any registered design, wilfully apply the mark printed on the piece of any article of manufacture, or who shall knowingly sell or issue any article of manufacture to which such mark has been wilfully and without due authority applied, shall be subject to a penalty of ten pounds, to be recovered by the proprietor of such design, with full costs of suit, in any court of competent jurisdiction.

Proceedings in case of piracy may be instituted in the county courts.

8. NOTWITHSTANDING anything in "The Copyright of Designs Acts," it shall be lawful for the proprietor of copyright in any design under "The Copyright of Designs Acts," or this Act, to institute proceedings in the county court of the district within which the piracy is alleged to have been committed, for the recovery of damages which he may have sustained by reason of such piracy: Provided always, that in any such proceedings the plaintiff shall deliver with his plaint a statement of particulars as to the date and title or other description of the registration whereof the copyright is alleged to be pirated, and as to the alleged piracy; and the defendant, if he intends at the trial to rely as a defence on any objection to such copyright, or to the title of the proprietor therein, shall give notice in the manner provided in the seventy-sixth section of the Act of the ninth and tenth Victoria, chapter ninety-five, of his intention to rely on such special defence, and shall state in such notice the date of publication and other particulars of any designs whereof prior publication is alleged, or of any objection to such copyright, or to the title of the proprietor to such copyright; and it shall be lawful for the judge of the county court, at the instance of the defendant or plaintiff respectively, to require any statement or notice so delivered by the plaintiff or of the defendant respectively to be amended in such manner as the said judge may think fit.

9 & 10 Vict. c. 95. s. 76.

Provisions of 9 & 10 Vict. c. 95., &c. to be applicable to proceedings for piracy of copyright of designs.

9. THE provisions of an Act of the ninth and tenth Victoria, chapter ninety-five, and of the twelfth and thirteenth Victoria, chapter one hundred, as to proceedings in any plaint, and as to appeal, and as to writs of prohibition, shall, so far as they are not inconsistent with or repugnant to the provisions of this Act, be applicable to any proceedings for piracy of copyright of designs under the said Copyright of Designs Acts or this Act.

SCHEDULE referred to in the foregoing Act.

5 & 6 Vict. c. 100. [10 Aug. 1842.]	An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture.
6 & 7 Vict. c. 65. [22 Aug. 1843.]	An Act to amend the laws relating to the copyright of designs.
13 & 14 Vict. c. 104. [14 Aug. 1850.]	An Act to extend and amend the Acts relating to the copyright of designs.
14 Vict. c. 8. [11 April 1851.]	An Act to extend the provisions of the Designs Act, 1850, and to give protection from piracy to persons exhibiting new inventions in the exhibition of the works of industry of all nations in one thousand eight hundred and fifty-one.

21 & 22 VICTORIA. A.D. 1858.

Chapter CVI.

An Act for the better Government of India. [*2nd August 1858.*]

Whereas by an Act of the Session holden in the sixteenth and seventeenth years of Her Majesty, chapter ninety-five, "to provide for the government of India," the territories in the possession and under the government of the East India Company were continued under such government, in trust for Her Majesty, until Parliament should otherwise provide, subject to the provisions of that Act and of other Acts of Parliament, and the property and rights in the said Act referred to are held by the said Company in trust for Her Majesty for the purposes of the said government: And whereas it is expedient that the said territories should be governed by and in the name of Her Majesty: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say, 16 & 17 Vict. c. 95.

Transfer of the Government of India to Her Majesty.

1. The government of the territories now in the possession or under the government of the East India Company, and all powers in relation to government vested in or exercised by the said Company in trust for Her Majesty, shall cease to be vested in or exercised by the said Company; and all territories in the possession or under the government of the said Company, and all rights vested in or which if this Act had not been passed might have been exercised by the said Company in relation to any territories, shall become vested in Her Territories under the government of the East India Company to be vested in Her Majesty, and powers to be exercised in her name.

Majesty, and be exercised in her name; and for the purposes of this Act India shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid.

India to be governed by and in the name of Her Majesty, &c.

2. INDIA shall be governed by and in the name of Her Majesty; and all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the government of India; and all the territorial and other revenues of or arising in India, and all tributes and other payments in respect of any territories which would have been receivable by or in the name of the said Company if this Act had not been passed, shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the purposes of the government of India alone, subject to the provisions of this Act.

Secretary of State to exercise powers now exercised by the Company, &c.

3. SAVE as herein otherwise provided, one of Her Majesty's Principal Secretaries of State shall have and perform all such or the like powers and duties in anywise relating to the government or revenues of India, and all such or the like powers over all officers appointed or continued under this Act, as might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of the said Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India in relation to such government or revenues, and the officers and servants of the said Company respectively, and also all such powers as might have been exercised by the said Commissioners alone; and any warrant or writing under Her Majesty's Royal Sign Manual, which by the Act of the session holden in the seventeenth and eighteenth years of Her Majesty, chapter seventy-seven, or otherwise, is required to be countersigned by the President of the Commissioners for the Affairs of India, shall in lieu of being so countersigned be countersigned by one of Her Majesty's Principal Secretaries of State.

Countersigning of warrants, &c. required to be countersigned by 17 & 18 Vict. c. 77., &c.

Four Principal and four Under Secretaries of State may sit as members in the House of Commons.

4. AFTER the commencement of this Act any four of Her Majesty's Principal Secretaries of State for the time being, and any four of the Under Secretaries for the time being to Her Majesty's Principal Secretaries of State, may sit and vote as members of the House of Commons; but not more than four such Principal Secretaries and not more than four such Under Secretaries shall sit as members of the House of Commons at the same time.

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Salaries of one Secretary of State and his Under Secretaries to be

6. IN case Her Majesty be pleased to appoint a fifth Principal Secretary of State, there shall be paid out of the revenues of India to such Principal Secretary of State and to his Under Secretaries respectively the like yearly

salaries as may for the time being be paid to any other of such Secretaries of State and his Under Secretaries respectively. paid out of the revenue of India.

Council of India.

7. For the purposes of this Act a Council shall be established, to consist of fifteen members, and to be styled the Council of India; and henceforth the Council in India now bearing that name shall be styled the Council of the Governor General of India. Council of India established.

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9. Every vacancy happening from time to time among the members of the Council appointed by Her Majesty, not being members so appointed by reason of the refusal or neglect of the Court of Directors or the refusal to accept office herein-before mentioned, shall be filled up by Her Majesty, by warrant under her Royal Sign Manual; and every other vacancy shall be filled up by the Council by election made at a meeting to be held for that purpose. Vacancies in the Council how to be filled up.

10. The major part of the persons to be elected by the Court of Directors, and the major part of the persons to be first appointed by Her Majesty after the passing of this Act to be members of the Council, shall be persons who shall have served or resided in India for ten years at the least, and (excepting in the case of late and present directors and officers on the home establishment of the East India Company who shall have so served or resided) shall not have last left India more than ten years next preceding the date of their appointment; and no person other than a person so qualified shall be appointed or elected to fill any vacancy in the Council unless at the time of the appointment or election nine at the least of the continuing members of the Council be persons qualified as aforesaid. The major part of the Council to be persons who shall have served or resided ten years in India, &c.

11. Every member of the Council appointed or elected under this Act shall hold his office during good behaviour; provided, that it shall be lawful for Her Majesty to remove any such member from his office upon an address of both Houses of Parliament. Tenure of office of members of the Council.

12. No member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament. Members of Council not sit in Parliament.

13. There shall be paid to each member of the Council the yearly salary of one thousand two hundred pounds, out of the revenues of India. Salaries of members of Council.

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15. The secretaries and other officers and servants on the home establishment of the said Company, and on the establishment of the Commissioners for the Affairs of India, immediately before the commencement of this Act, shall on such commencement be and form the establishment of the Secretary of State in Council; and the Secretary of State shall with all convenient speed Establishment of the Secretary of State in Council.

make such arrangement of the said establishments, and such reductions therein, as may seem to him consistent with the due conduct of the public business, and shall within six months after the commencement of this Act submit a scheme for the permanent establishment to Her Majesty in Council; and it shall be lawful for Her Majesty, by the advice of her Privy Council, upon consideration of such scheme, to fix and declare what shall constitute and be the establishment of the Secretary of State in Council, and what salaries shall be paid to the persons on the establishment: and the Order of Her Majesty in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, provided Parliament be then sitting, or otherwise within fourteen days after the next meeting thereof; and after such establishment has been formed by such Order in Council, no addition of persons shall be made to such establishment, nor any addition made to the salaries authorized by such Order, except by a similar Order in Council, to be laid in like manner before both Houses of Parliament.

Removal of officers and supply of vacancies in the establishment.

16. AFTER the first formation of the establishment, it shall be lawful for the Secretary of State in Council to remove any officer or servant belonging thereto, and also to make all appointments and promotions to and in such establishment; provided, that the Order of Her Majesty in Council of the twenty-first day of May one thousand eight hundred and fifty-five, or such other regulations as may be from time to time established by Her Majesty for examinations, certificates, probation, or other tests of fitness, in relation to appointments to junior situations in the Civil Service, shall apply to such appointments on the said establishment.

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Superannuation to officers on the establishment of the Secretary of State in Council.

18. IT shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to any such secretary, officer, or servant as aforesaid, retained on such last-mentioned establishment, such compensation, superannuation, or retiring allowance on his ceasing to hold office as might have been granted to him if this Act had not been passed; and the transfer of any person to the service of the Secretary of State in Council shall be deemed to be a continuance of his previous appointment or employment, and shall not prejudice any claims which he might have had in respect of length of service if his service under the said Company or Commissioners had continued; and it shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to any secretary, officer, or servant appointed on the said establishment after the first formation thereof, such compensation, superannuation, or retiring allowance as, under the Act of the session holden in the fourth and fifth years of King William the Fourth, chapter twenty-four, or any other Act for the time being in force concerning superannuations and other allowances to

4 & 5 Will. 4. c. 24.

persons having held civil offices in the public service, may be granted to persons appointed on the establishment of one of Her Majesty's Principal Secretaries of State.

Duties and Procedure of the Council.

Duties of the Council, &c.

19. THE Council shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India; but every order or communication sent to India shall be signed by one of the Principal Secretaries of State; and, save as expressly provided by this Act, every order in the United Kingdom in relation to the government of India under this Act shall be signed by such Secretary of State; and all despatches from governments and presidencies in India, and other despatches from India, which if this Act had not been passed should have been addressed to the Court of Directors or to their secret committee, shall be addressed to such Secretary of State.

Secretary of State to divide the Council into committees, and to regulate the transaction of business.

20. IT shall be lawful for the Secretary of State to divide the Council into committees for the more convenient transaction of business, and from time to time to re-arrange such committees, and to direct what departments of the business in relation to the government of India under this Act shall be under such committees respectively, and generally to direct the manner in which all such business shall be transacted.

President and Vice-President of the Council.

21. THE Secretary of State shall be the President of the Council, with power to vote; and it shall be lawful for such Secretary of State in Council to appoint from time to time any member of such Council to be Vice-President thereof; and any such Vice-President may at any time be removed by the Secretary of State.

Meetings of the Council.

22. ALL powers by this Act required to be exercised by the Secretary of State in Council, and all powers of the Council, shall and may be exercised at meetings of such Council, at which not less than five members shall be present; and at every meeting the Secretary of State, or in his absence the Vice-President, if present, shall preside, and in the absence of the Secretary of State and Vice-President, one of the members of the Council present shall be chosen by the members present to preside at the meeting; and such Council may act notwithstanding any vacancy therein: Meetings of the Council shall be convened and held when and as the Secretary of State shall from time to time direct; provided, that one such meeting at least be held in every week.

Procedure at meetings.

23. AT any meeting of the Council at which the Secretary of State is present, if there be a difference of opinion on any question other than the question of the election of a member of Council, or other than any question

with regard to which a majority of the votes at a meeting is herein-after declared to be necessary, the determination of the Secretary of State shall be final; and in case of an equality of votes at any meeting of the Council, the Secretary of State, if present, and in his absence the Vice-President, or presiding member, shall have a casting vote; and all acts done at any meeting of the Council in the absence of the Secretary of State, except the election of a member of the Council, shall require the sanction or approval in writing of the Secretary of State; and in case of difference of opinion on any question decided at any meeting, the Secretary of State may require that his opinion, and the reasons for the same, be entered in the minutes of the proceedings, and any member of the Council who may have been present at the meeting may require that his opinion, and any reasons for the same that he may have stated at the meeting, be entered in like manner.

Orders, &c. to be open to the perusal of members of Council, who may record their opinions.

24. EVERY order or communication proposed to be sent to India, and every order proposed to be made in the United Kingdom by the Secretary of State, under this Act, shall, unless the same has been submitted to a meeting of the Council, be placed in the council room for the perusal of all members of the Council during seven days before the sending or making thereof, except in the cases herein-after provided; and it shall be lawful for any member of the Council to record in a minute book, to be kept for that purpose, his opinion with respect to each such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

Secretary of State acting against opinions of the majority to record his reasons.

25. IF a majority of the Council record as aforesaid their opinions against any act proposed to be done, the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto.

Provision for cases of urgency.

26. PROVIDED, that where it appears to the Secretary of State that the despatch of any communication, or the making of any order, not being an order for which a majority of the votes at a meeting is hereby made necessary, is urgently required, the communication may be sent or order given notwithstanding the same may not have been submitted to a meeting of the Council or deposited for seven days as aforesaid, the urgent reasons for sending or making the same being recorded by the Secretary of State, and notice thereof being given to every member of the Council, except in the cases herein-after mentioned.

Orders now sent through secret committee may be sent by Secretary of

27. PROVIDED also, that any order, not being an order for which a majority of votes at a meeting is hereby made necessary, which might, if this Act had not been passed, have been sent by the Commissioners for the Affairs of India through the secret committee of the Court of Directors to Governments or

Presidencies in India, or to the officers or servants of the said Company, may, after the commencement of this Act, be sent to such Governments or Presidencies, or to any officer or servant in India, by the Secretary of State, without having been submitted to a meeting or deposited for the perusal of the members of the Council, and without the reasons being recorded or notice thereof given as aforesaid.

State without communication with the Council.

28. ANY despatches to Great Britain which might if this Act had not been passed have been addressed to the secret committee of the Court of Directors, may be marked "secret" by the authorities sending the same; and such despatches shall not be communicated to the members of the Council, unless the Secretary of State shall so think fit and direct.

As to communication of secret despatches from India.

Appointments and Patronage.

29. THE appointments of Governor General of India, fourth ordinary member of the Council of the Governor General of India [Virt. rep., 24 & 25 Vict. c. 67. s. 3.], and Governors of Presidencies in India, now made by the Court of Directors with the approbation of Her Majesty, and the appointments of Advocate General for the several Presidencies now made with the approbation of the Commissioners for the Affairs of India, shall be made by Her Majesty by warrant under Her Royal Sign Manual; the appointments of the ordinary members of the Council of the Governor General of India, except the fourth ordinary member, and the appointments of the members of Council of the several presidencies, shall be made by the Secretary of State in Council, with the concurrence of a majority of members present at a meeting [Virt. rep., 32 & 33 Vict. c. 97. s. 8.]; the appointments of the Lieutenant Governors of provinces or territories shall be made by the Governor General of India, subject to the approbation of Her Majesty; and all such appointments shall be subject to the qualifications now by law affecting such offices respectively.

Appointments to be made by or with the approbation of Her Majesty.

30. ALL appointments to offices, commands, and employments in India, and all promotions, which by law, or under any regulations, usage, or custom, are now made by any authority in India, shall continue to be made in India by the like authority, and subject to the qualifications, conditions, and restrictions now affecting such appointments respectively; but the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, shall have the like power to make regulations for the division and distribution of patronage and power of nomination among the several authorities in India, and the like power of restoring to their stations, offices, or employments, officers and servants suspended or removed by any authority in India as might have been exercised by the said Court of Directors, with the approbation of the Commissioners for the Affairs of India, if this Act had not been passed.

Appointments now made in India to continue to be made there.

Powers of Secretary of State in Council as to appointments, &c. in India.

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Secretary of State in Council to make regulations for the admission of candidates to the Civil Service of India.

32. WITH all convenient speed after the passing of this Act, regulations shall be made by the Secretary of State in Council, with the advice and assistance of the commissioners for the time being acting in execution of Her Majesty's Order in Council of twenty-first May one thousand eight hundred and fifty-five, "for regulating the admission of persons to the civil service of the Crown," for admitting all persons being natural-born subjects of Her Majesty (and of such age and qualification as may be prescribed in this behalf) who may be desirous of becoming candidates for appointment to the Civil Service of India to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations, under the superintendence of the said last-mentioned commissioners, or of the persons for the time being intrusted with the carrying out of such regulations as may be from time to time established by Her Majesty for examination, certificate, or other test of fitness in relation to appointments to junior situations in the civil service of the Crown; and the candidates who may be certified by the said commissioners or other persons as aforesaid to be entitled under such regulations shall be recommended for appointment according to the order of their proficiency as shown by such examinations; and such persons only as shall have been so certified as aforesaid shall be appointed or admitted to the Civil Service of India by the Secretary of State in Council: Provided always, that all regulations to be made by the said Secretary of State in Council under this Act shall be laid before Parliament within fourteen days after the making thereof, if Parliament be sitting, and, if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Regulations made by Secretary of State to be laid before Parliament.

Other appointments and admissions to service vested in Her Majesty.

33. ALL appointments to cadetships, naval and military, and all admissions to service not herein otherwise expressly provided for, shall be vested in Her Majesty; and the names of persons to be from time to time recommended for such cadetships and service shall be submitted to Her Majesty by the Secretary of State.

Regulations to be made for admitting persons to be examined for cadetships in engineers and artillery.

34. WITH all convenient speed after the commencement of this Act, regulations shall be made for admitting any persons being natural-born subjects of Her Majesty (and of such age and qualifications as may be prescribed in this behalf) who may be desirous of becoming candidates for cadetships in the engineers and in the artillery, to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations.

Not less than one-tenth of persons

35. NOT less than one tenth of the whole number of persons to be recommended in any year for military cadetships (other than cadetships in the

engineers and artillery) shall be selected according to such regulations as the Secretary of State in Council may from time to time make in this behalf from among the sons of persons who have served in India in the military or civil services of Her Majesty, or of the East India Company.

recommended for military cadetships to be selected from sons of persons who have served in India.

36. EXCEPT as aforesaid, all persons to be recommended for military cadetships shall be nominated by the Secretary of State and members of Council, so that out of seventeen nominations the Secretary of State shall have two and each member of Council shall have one; but no person so nominated shall be recommended unless the nomination be approved of by the Secretary of State in Council.

Nominations for cadetships to be made by Secretary of State and members of Council.

37. SAVE as herein-before provided, all powers of making regulations in relation to appointments and admissions to service and other matters connected therewith, and of altering or revoking such regulations, which if this Act had not been passed might have been exercised by the Court of Directors or Commissioners for the Affairs of India, may be exercised by the Secretary of State in Council; and all regulations in force at the time of the commencement of this Act in relation to the matters aforesaid shall remain in force, subject nevertheless to alteration or revocation by the Secretary of State in Council as aforesaid.

Regulations as to appointments and admissions to service.

38. ANY writing under the Royal Sign Manual, removing or dismissing any person holding any office, employment, or commission, civil or military, in India, of which, if this Act had not been passed, a copy would have been required to be transmitted or delivered within eight days after being signed by Her Majesty to the chairman or deputy chairman of the Court of Directors, shall, in lieu thereof, be communicated within the time aforesaid to the Secretary of State in Council.

Removal of officers by Her Majesty to be communicated to Secretary of State in Council.

Transfer of Property.

39. ALL lands and hereditaments, monies, stores, goods, chattels, and other real and personal estate of the said Company, subject to the debts and liabilities affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and all other emoluments, which the said Company shall be seised or possessed of or entitled to at the time of the commencement of this Act, except the capital stock of the said Company and the dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the provisions of this Act, for the purposes of the Government of India.

Real and personal property of the Company to vest in Her Majesty for the purposes of the government of India.

40. THE Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and

Powers to sell and purchase, and to enter

into contracts, vested in Secretary of State in Council, &c.

personal estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise money on any such real estate by way of mortgage, and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interests therein, stores, goods, chattels, and other property, and to enter into any contracts whatsoever, as may be thought fit, for the purposes of this Act; and all property so acquired shall vest in Her Majesty for the service of the Government of India; and any conveyance or assurance of or concerning any real estate to be made by the authority of the Secretary of State in Council may be made under the hands and seals of three members of the Council.

Revenues.

Expenditure of revenues of India subject to control of Secretary of State in Council.

41. THE expenditure of the revenues of India, both in India and elsewhere, shall be subject to the control of the Secretary of State in Council; and no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council.

Existing and future debts and liabilities of the Company and expenses to be charged on revenues of India.

42. . . . . all the bond, debenture, and other debt of the said Company in Great Britain, and all the territorial debt and all other debts of the said Company, and all sums of money, costs, charges, and expenses, which if this Act had not been passed would after the time appointed for the commencement thereof have been payable by the said Company out of the revenues of India, in respect or by reason of any treaties, covenants, contracts, grants, or liabilities then existing, and all expenses, debts, and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of India, and all payments under this Act, shall be charged and chargeable upon the revenues of India alone, as the same would have been if this Act had not been passed, and such expenses, debts, liabilities, and payments as last aforesaid had been expenses, debts, and liabilities lawfully contracted and incurred by the said Company; and such revenues shall not be applied to any other purpose whatsoever; and all other monies vested in or arising or accruing from property or rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such revenues: . . . . . .

Revenues remitted to Great Britain, and monies arising in Great Britain, to be paid to Secretary of

43. SUCH part of the revenues of India as shall be from time to time remitted to Great Britain, and all monies of the said Company in their Treasury or under the care of their cashier, and all other monies in Great Britain of the said Company, or which would have been received by them in Great Britain if this Act had not been passed, and all monies arising or accruing in Great

Britain from any property or rights vested in Her Majesty by this Act, or from the sale or disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act; and all such monies, except as herein-after otherwise provided, shall be paid into the Bank of England, to the credit of an account to be opened by the Governor and Company of the Bank of England, to be intituled "The Account of the Secretary of State in Council of India;" and all monies to be placed to the credit of such account under this Act shall be paid out upon drafts or orders signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries; and such account shall be a public account: Provided always, that the Secretary of State in Council may cause to be kept from time to time, under the care of their cashier, in an account to be kept at the Bank of England, such sum or sums of money as they may deem necessary for the payments now made out of money under the care of the cashier of the said Company. State in Council, &c.

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45. THERE shall be raised in the books of the Governor and Company of the Bank of England such accounts as may be necessary in respect of any stock or stocks of Government annuities; and all such accounts respectively shall be intituled "The Stock Account of the Secretary of State in Council of of India;" and every such account shall be a public account. Stock accounts to be opened at the Bank.

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47. THE Secretary of State in Council, by letter of attorney, executed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, may authorize all or any of the cashiers of the Bank of England to sell and transfer all or any part of the stock or stocks standing or that may thereafter stand in the books of the said Bank to the several accounts of the Secretary of State in Council, and to purchase and accept stock on the said accounts, and to receive the dividends due and to become due on the several stocks standing or that may thereafter stand on the said accounts, and by any writing signed by three members of the Council, and countersigned as aforesaid, may direct the application of the monies to be received in respect of such sales and dividends; but no stock shall be purchased or sold and transferred by any of the said cashiers under the authority of such general letter of attorney, except upon an order in writing directed to the said chief cashier and chief accountant from time to time, and duly signed and countersigned as aforesaid. Power to grant letters of attorney for sale, &c. of stock and receipt of dividends.

48. ALL Exchequer bills, Exchequer bonds, or other Government securities, or other securities, of whatsoever kind, not herein-before referred to, which shall be held by the Governor and Company of the Bank of England in trust Provision as to Exchequer bills, bonds, and other securities.

for or on account of the East India Company at the time of the commencement of this Act, shall thenceforward be held by the said Governor and Company in trust for and on account of the Secretary of State in Council; and all such securities as aforesaid, and all such securities as may thereafter be lodged with the said Governor and Company by or on behalf of the Secretary of State in Council, shall and may be disposed of and the proceeds thereof applied as may be authorized by order in writing signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and directed to the said chief cashier and chief accountant.

Powers of borrowing transferred to Secretary of State in Council, &c.

49. ALL powers of issuing bonds, debentures, and other securities for money in Great Britain which, if this Act had not been passed, might have been exercised by the said Company, or the Court of Directors, under the direction and control of the Commissioners for the Affairs of India, or otherwise, shall and may be exercised by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting; and such securities as might have been issued under the seal of the said Company shall be issued under the hands of three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries.

Provisions in force relating to forgery to extend to bonds, &c. issued by Secretary of State in Council.

[**50.**[a]] ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any bond, debenture, or security issued by the Secretary of State in Council of India under the authority of this Act.

Present system of issuing warrants for payments to be continued.

51. THE regulations and practice now acted on by the Court of Directors on the issue of warrants or authorities for the payment of money shall be maintained and acted on by the Secretary of State in Council of India under this Act until the same be altered by the authority of Her Majesty in Council: Provided, ... that warrants or authorities which have heretofore been signed by two directors of the East India Company shall, after the commencement of this Act, be signed by three members of the Council of India.

Audit of accounts in Great Britain.

52. IT shall be lawful for Her Majesty, by warrant under her Royal Sign Manual, countersigned by the Chancellor of the Exchequer, to appoint from time to time a fit person to be auditor of the accounts of the Secretary of State in Council, and to authorize such auditor to appoint and remove from time to time such assistants as may be specified in such warrant, and every such auditor shall hold office during good behaviour; and there shall be paid to such

[a] Section 50 is repealed, except as to Scotland, 24 & 25 Vict. c. 95. s. 1.]

auditor and assistants out of the revenues of India such respective salaries as Her Majesty, by warrant as aforesaid countersigned as aforesaid, may direct; and such auditor shall examine and audit the accounts of the receipt, expenditure, and disposal in Great Britain of all monies, stores, and property applicable for the purposes of this Act; and the Secretary of State in Council shall by the officers and servants of the establishment produce and lay before such auditor from time to time all such accounts, accompanied by proper vouchers for the support of the same, and shall submit to his inspection all books, papers, and writings having relation thereto; and such auditor shall have power to examine all such officers and servants in Great Britain of the establishment as he may see fit in relation to such accounts, and the receipt, expenditure, or disposal of such monies, stores, and property, and for that purpose, by writing under his hand, to summon before him any such officer or servant; and such auditor shall report from time to time to the Secretary of State in Council his approval or disapproval of such accounts, with such remarks and observations in relation thereto as he may think fit, specially noting any case, if such there shall be, in which it shall appear to him that any money arising out of the revenues of India has been appropriated to other purposes than those of the Government of India to which alone they are declared to be applicable; and shall specify in detail in his reports all sums of money, stores, and property which ought to be accounted for, and are not brought into account or have not been appropriated, in conformity with the provisions of this Act, or have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies, or irregularities which may appear in such accounts, or in the authorities, vouchers, or documents having relation thereto; and all such reports shall be laid before both Houses of Parliament by such auditor, together with the accounts of the year to which the same may relate.

Accounts to be annually laid before Parliament.

53. The Secretary of State in Council shall, within the first fourteen days during which Parliament may be sitting next after the first day of May in every year, lay before both Houses of Parliament an account for the financial year preceding that last completed of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, at each of the several Presidencies or Governments, and of all the annual receipts and disbursements at home and abroad on account of the Government of India, distinguishing the same under the respective heads thereof, together with the latest estimate of the same for the last financial year, and also the amount of the debts chargeable on the revenues of India, with the rates of interest they respectively carry, and the annual amount of such interest, the state of the effects and credits at each Presidency or Government, and in England or elsewhere, applicable to the purposes of the Government of India, according to the

latest advices which have been received thereof, and also a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof; and if any new or increased salaries or pensions of fifty pounds a year or upwards have been granted or created within any year, the particulars thereof shall be specially stated and explained at the foot of the account of such year; and such account shall be accompanied by a statement prepared from detailed reports from each Presidency and district in India in such form as shall best exhibit the moral and material progress and condition of India in each such Presidency.

When order to commence hostilities is sent to India, the fact to be communicated to Parliament.

54. WHEN any order is sent to India directing the actual commencement of hostilities by Her Majesty's Forces in India, the fact of such order having been sent shall be communicated to both Houses of Parliament within three months after the sending of such order, if Parliament be sitting, unless such order shall have been in the meantime revoked or suspended, and, if Parliament be not sitting at the end of such three months, then within one month after the next meeting of Parliament.

Except for repelling invasion, the revenues of India not applicable for any military operation beyond the frontiers.

55. EXCEPT for preventing or repelling actual invasion of Her Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's Forces charged upon such revenues.

Existing Establishments.

Indian Military and Naval Forces to remain under existing conditions of service.

56. THE Military and Naval Forces of the East India Company shall be deemed to be the Indian Military and Naval Forces of Her Majesty, and shall be under the same obligations to serve Her Majesty as they would have been under to serve the said Company, and shall be liable to serve within the same territorial limits only, for the same terms only, and be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company: Such Forces, and all persons hereafter enlisting in or entering the same, shall continue and be subject to all Acts of Parliament, laws of the Governor General of India in Council, and articles of war, and all other laws, regulations, and provisions relating to the East India Company's Military and Naval Forces respectively, as if Her Majesty's Indian Military and Naval Forces respectively had throughout such Acts, laws, articles, regulations, and provisions been mentioned or referred to, instead of such Forces of the said Company; and the pay and expenses of and incident to Her Majesty's Indian Military and Naval Forces shall be defrayed out of the revenues of India.

Provision for persons hereafter entering Her Majesty's Indian Forces.

57. PROVIDED, that it shall be lawful for Her Majesty from time to time by Order in Council to alter or regulate the terms and conditions of service under which persons hereafter entering Her Majesty's Indian Forces shall be commissioned, enlisted, or entered to serve; and the forms of attestation and of the oath or declaration to be used and taken or made respectively on attesting persons to serve in Her Majesty's Indian Forces shall be such as Her Majesty with regard to the European Forces, and the Governor General of India in Council with regard to the Native Forces, shall from time to time direct: Provided, that every such Order in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and, if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Officers, &c. in employ of the Company at the commencement of this Act to be deemed to hold offices under Her Majesty.

58. ALL persons who at the time of the commencement of this Act shall hold any offices, employments, or commissions whatever under the said Company in India shall thenceforth be deemed to hold such offices, employments, and commissions under Her Majesty as if they had been appointed under this Act, and shall be paid out of the revenues of India; and the transfer of any person to the service of Her Majesty shall be deemed to be a continuance of his previous service, and shall not prejudice any claims to pension, or any claims on the various annuity funds of the several Presidencies in India, which he might have had if this Act had not been passed.

All orders of the Court of Directors or Board of Control given before commencement of this Act to remain in force.

59. ALL orders, regulations, and directions lawfully given or made before the commencement of this Act by the Court of Directors or by the Commissioners for the Affairs of India shall remain in force; but the same shall, from and after the commencement of this Act, be deemed to be the orders, regulations, and directions under this Act, and take effect and be construed and be subject to alteration or revocation accordingly.

Cesser of functions of Directors, &c.

60. ALL functions and powers of Courts of Proprietors and Courts of Directors of the said Company in relation to the Government of India . . . . . shall cease; . . . . . .

Board of Control abolished.

61. THE appointments and powers of appointment of Commissioners for the Affairs of India shall cease and determine.

Records, &c. of the Company to be delivered into the care of Secretary of State in Council.

62. ALL books, records, and archives of the said Company, except such books and documents as concern the ownership of shares in the capital stock of the said Company, and the payments to the proprietors of such capital stock of their respective shares of the dividend thereon, shall be delivered into the care and custody of the Secretary of State in Council as they may direct.

A person succeeding to the office of Governor

63. IN case the person who shall be entitled under any provisional appointment to succeed to the office of Governor General of India upon a vacancy therein, or who shall be appointed absolutely to assume that office,

General may exercise his powers before he takes his seat in Council, &c.

shall be in India (upon or after the happening of the vacancy, or upon or after the receipt of such absolute appointment, as the case may require), but shall be absent from Fort William in Bengal, or from the place where the Council of the Governor General of India may then be, and it shall appear to him necessary to exercise the powers of Governor General before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General; and after such proclamation, and thenceforth until he shall repair to Fort William or the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council; provided, that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by the person who shall have so assumed the said office of Governor General; and when the office of Governor General is assumed under the foregoing provision, if there be at any time before the Governor General takes his seat in Council no Vice-President of the Council authorized to preside at meetings for making laws and regulations (as provided by section twenty-two of the Act of the sixteenth and seventeenth years of Her Majesty [a]), the senior ordinary member of Council then present shall preside therein, with the same powers as if a Vice-President had been appointed and were absent.

Continuance of existing Enactments.

Existing provisions to be applicable to Secretary of State in Council, &c.

64. ALL Acts and provisions now in force under charter or otherwise concerning India shall, subject to the provisions of this Act, continue in force, and be construed as referring to the Secretary of State in Council in the place of the said Company and the Court of Directors and Court of Proprietors thereof; and all enactments applicable to the officers and servants of the said Company in India, and to appointments to office or admissions to service by the said Court of Directors, shall, subject to the provisions of this Act, remain applicable to the officers and servants continued and to the officers and servants appointed or employed in India, and to appointments to office and admissions to service under the authority of this Act.

Actions and Contracts.

Secretary of

65. THE Secretary of State in Council shall and may sue and be sued as

[a Sections 22 and 23 of the Act 16 & 17 Vict. c. 95. are repealed, 24 & 25 Vict. c. 67. s. 2.; see secs. 6, 15, of that Act.]

well in India as in England by the name of the Secretary of State in Council as a body corporate; and all persons and bodies politic shall and may have and take the same suits, remedies, and proceedings, legal and equitable, against the Secretary of State in Council of India as they could have done against the said Company; and the property and effects hereby vested in Her Majesty for the purposes of the government of India, or acquired for the said purposes, shall be subject and liable to the same judgments and executions as they would while vested in the said Company have been liable to in respect of debts and liabilities lawfully contracted and incurred by the said Company.[a]

State in Council may sue and be sued.

* * * * * * * * *

67. All treaties made by the said Company shall be binding on Her Majesty; and all contracts, covenants, liabilities, and engagements of the said Company made, incurred, or entered into before the commencement of this Act may be enforced by and against the Secretary of State in Council in like manner and in the same courts as they might have been by and against the said Company if this Act had not been passed.

Treaties shall be binding on Her Majesty, and contracts, &c. of Company may be enforced.

68. Neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contract, covenant, or engagement of the said Company as aforesaid, or in respect of any contract entered into under the authority of this Act, or other liability of the said Secretary of State or Secretary of State in Council in their official capacity; but all such liabilities, and all costs and damages in respect thereof, shall be satisfied and paid out of the revenues of India.

Members of Council not personally liable.

* * * * * * * * *

71. . . . . , the said Company shall not, after the passing of this Act, be liable in respect of any claim, demand, or liability which has arisen or may hereafter arise out of any treaty, covenant, contract, grant, engagement, or fiduciary obligation made, incurred, or entered into by the said Company before the passing of this Act, whether the said Company would, but for this Act, have been bound to satisfy such claim, demand, or liability out of the revenues of India, or in any other manner whatsoever.

Company not to be liable in respect of any claim arising out of any covenant, &c. made before the passing of this Act.

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Commencement of the Act.

74. Save as herein otherwise provided, this Act shall commence and take effect on the expiration of thirty days after the day of the passing thereof.

Commencement of Act.

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[a] See *P. & O. S. N. Co.* v. *Secy. of State for India*, 4 Bombay H. C. Rep., Appendix, pp. 4, 5, per Peacock, C. J.

22 VICTORIA. A. D. 1859.

CHAPTER XI.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*8th April 1859.*]

WHEREAS, in consequence of the recent disturbances in India, it is expedient that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Secretary of State in Council of India may raise any sum not exceeding seven millions.

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom for the service of the government of India any sum or sums of money not exceeding in the whole seven millions as herein-after provided.

Money may be raised on bonds under the hands of three members of the Council of India, countersigned by Secretary of State, or Under Secretary.

2. IT shall be lawful for the said Secretary of State in Council from time to time to borrow upon bonds to be issued under the hands of three members of the Council of India, and countersigned by the Secretary of State for India, or one of his Under Secretaries or his assistant Under Secretary, all or any part of the money hereby authorized to be raised as aforesaid; such bonds to be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

Money not borrowed on bond may be raised on debentures.

3. FOR raising all or any part of the money by this Act authorized to be raised which may not be borrowed on bond as aforesaid, it shall be lawful for the said Secretary of State in Council to issue from time to time debentures under the hands of three members of the said Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the said Secretary of State in Council may think fit; such debentures to be issued at or for such prices and on such terms as may be determined by the said Secretary of State in Council.

Payment of principal and interest on debentures.

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be payable half-yearly, on such days as shall be mentioned therein; . . . . . .

Debentures transferable by delivery or deed.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal moneys secured thereby, and all interest due and accruing thereon, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed.

The whole amount secured by bonds, &c. not to exceed seven millions.

6. THE whole amount of principal moneys to be secured by bonds or debentures, or by bonds and debentures, to be issued under this Act, shall not exceed seven millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then session of Parliament, ...

* * * * * * * * *

Bonds, &c. to be charged on revenues of India.

8. ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Application of 5 & 6 Will. 4. c. 64. s. 4. to bonds and debentures under this Act.

9. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures, &c. to be punishable as forgery of East India bonds.

10. [a] ALL provisions now in force in anywise relating to the offence of forging, or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

* * * * * * * * *

Saving of existing powers.

12. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of the passing thereof.

[a Section 10 is repealed, except as to Scotland, 24 & 25 Vict. c. 95. s. 1.]

22 VICTORIA. A. D. 1859.

CHAPTER XX.

An Act to provide for taking Evidence in Suits and Proceedings pending before Tribunals in Her Majesty's Dominions in Places out of the Jurisdiction of such Tribunals. [*19th April 1859.*]

WHEREAS it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, and proceedings pending before tribunals in Her Majesty's dominions in places in such dominions out of the jurisdiction of such tribunals: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Examination of witnesses out of the jurisdiction of any tribunal in Her Majesty's possessions in relation to any suit pending before such tribunal.

1. WHERE upon an application for this purpose it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in Her Majesty's dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such court or tribunal of any witness or witnesses out of the jurisdiction of such court or tribunal, and within the jurisdiction of such first-mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such commission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said court or judge by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just; and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge.

Persons giving false evidence, guilty of perjury.

2. EVERY person examined as a witness under any such commission, order, or other process as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury.

Payment of expenses.

3. PROVIDED always, that every person whose attendance shall be so

ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Power to persons to refuse to answer questions or to produce documents.

4. PROVIDED also, that every person examined under any such commission, order, or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the court by which, or by a judge whereof, or before the judge by whom the order for examination was made, would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

What courts and judges to have authority under this Act.

5. HER Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any order of Her Majesty in Council, may be appointed for this purpose, shall respectively be courts and judges having authority under this Act.

Power to frame rules, &c. for giving effect to provisions of this Act.

6. IT shall be lawful for the Lord Chancellor of Great Britain, with the assistance of two of the judges of the Courts of Common Law at Westminster, so far as relates to England, and for the Lord Chancellor of Ireland, with the assistance of two of the judges of the Courts of Common Law at Dublin, so far as relates to Ireland, and for two of the judges of the Court of Session, so far as relates to Scotland, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions abroad, so far as relates to such colony or possession, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

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22 & 23 VICTORIA. A. D. 1859.

CHAPTER XXVII.

An Act to repeal the Thirty-first Section of the Act of the Sixteenth and Seventeenth Years of Victoria, Chapter Ninety-five, and to alter the Limit of the Number of European Troops to be maintained for local Service in India.

[*13th August 1859.*]

WHEREAS it is expedient to repeal so much of the section numbered thirty-one of an Act passed in the session holden in the sixteenth and seventeenth years of Her Majesty, chapter ninety-five, as limits the number of *European* forces of the *East India* Company to be raised and maintained at any one

time out of the revenues arising from the territories subject to the Government of the said company to twenty thousand men, and limits the number of non-commissioned officers and private men which it should be lawful for the said company to enlist and have in pay and train and discipline under the Act of the thirty-ninth year of King *George* the Third, chapter one hundred and nine, at any one time, to four thousand: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Limit of European troops of Her Majesty's Indian army.

IT shall be lawful for the Secretary of State in Council, at any time after the passing of this Act, and from time to time, to give such directions as he may think fit for raising and maintaining out of the revenues arising from the territories of *India* vested in her Majesty by virtue of an Act passed in the session holden in the twenty-first and twenty-second years of the reign of Her Majesty, chapter one hundred and six, such number of *European* forces as he may judge necessary for the *Indian* army of Her Majesty, so that the number of such forces at any one time do not amount in the whole to more than thirty thousand men, not including the commissioned and non-commissioned officers; and it shall be lawful for Her Majesty to enlist, and have in pay and maintain out of the said revenues in the United Kingdom of *Great Britain* and *Ireland* and the *British* Isles, any number of non-commissioned officers and private men belonging to the said *Indian* army, not exceeding at any one time six thousand.

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22 & 23 VICTORIA. A. D. 1859.

CHAPTER XXXIX.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*13th August 1859.*]

21 & 22 Vict. c. 3.

WHEREAS by an Act passed in the twenty-first year of Her Majesty, chapter three, power was given to the East India Company to raise money by bonds and debentures to the extent of eight millions: And whereas by an Act

22 Vict. c. 11.

passed in the last session, chapter eleven, power was given to the Secretary of State in Council of India to raise money by bonds and debentures to the extent of seven millions: And whereas it is expedient that the Secretary of State in Council of India should be enabled to raise a further sum of money in the United Kingdom on the credit of the revenues of India: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice

and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows :

Secretary of State in Council of India may raise any sum not exceeding five millions.

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions; and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

How bonds may be issued.

2. ALL bonds issued under the authority of this Act, or hereafter issued under the authority of either of the recited Acts, may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

How debentures may be issued.

3. ALL debentures issued under the authority of this Act, or hereafter issued under the authority of either of the recited Acts, may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts and at such rate or rates of interest as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

Payment of principal and interest on debentures.

4. ALL debentures issued under the authority of this Act shall be paid off at par, at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures, and by all debentures issued under the authority of either of the said recited Acts, shall be payable either at the treasury of the Secretary of State in Council in London, or at the Bank of England.

Debentures to be transferable by delivery or deed.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed; provided, that the coupons for interest annexed to any debenture issued under the authority of this Act or under the authority of either of the recited Acts shall pass by delivery.

Coupons for interest to pass by delivery.

Payment of interest and principal of capital stock and annuities.

6. ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per cent. per annum, as the Secretary of State in

Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

7. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attornies, thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law; and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities to be personal estate.

8. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London or otherwise.

The whole amount charged on revenues of India not to exceed five millions, &c.

9. The whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal moneys previously secured under this Act, as hereinafter provided.

Power to raise money for payment of principal money.

10. Upon or for the repayment of any principal money secured under the authority of this Act or under the authority of either of the recited Acts, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act or either of the recited Acts may require to be repaid;

but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

Bonds, &c. to be charged on revenues of India.

11. ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Application of 5 & 6 Will. 4. c. 64. s. 4. to bonds, &c. under this Act.

12. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures, &c. to be punishable as forgery of East India bonds.

[13.[a]] ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

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Saving powers of Secretary of State in Council.

15. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

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22 & 23 VICTORIA. A. D. 1859.

CHAPTER XLI.

An Act to amend the Act for the better Government of India.

[*13th August* 1859.]

21 & 22 Vict. c. 106.

WHEREAS an Act was passed in the session holden in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled "An Act for the better government of India": And whereas it has been considered that, under the enactment in the fortieth section of the said Act, the local governments in India and officers intrusted with the charge of provinces or districts there respectively cannot enter into and execute such contracts and

[a Section 13 is repealed, except as to Scotland, 24 & 25 Vict. c. 95. s. 1.]

assurances in India on behalf of the Secretary of State in Council as before the commencement of the said Act they were respectively competent to enter into and execute on behalf of the East India Company; and it is expedient to give them such powers: And whereas doubts have arisen as to the proper mode of the execution of contracts entered into by the Secretary of State in Council pursuant to the provision of the said fortieth section of the said Act; and it is expedient that such doubts should be removed: And whereas it is expedient to alter so much of the enactment in the forty-third section of the said Act as relates to the mode of signing and countersigning the drafts or orders therein mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

Governor General, &c. may sell, purchase, and enter into contracts.

1. THE Governor General of India in Council, the Governor in Council of Fort St. George, the Governor in Council of Bombay, the Lieutenant Governor of the North-western Provinces now under the Presidency of Fort William in Bengal, respectively, or any officer for the time being intrusted with the government, charge, or care of any presidency, province, or district in India, subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall from time to time prescribe, are hereby respectively empowered to sell and dispose of all real and personal estate whatsoever in India for the time being vested in Her Majesty under the said Act, within the limits of their respective governments, provinces, or districts, or to raise money on any such real estate by way of mortgage, and to make proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interest therein, stores, goods, chattels, and other property in India, within the said respective limits, and to enter into any contracts whatsoever, within the said respective limits, for the purposes of the said Act; and all property so acquired shall vest in Her Majesty for the service of the government of India.

Mode of executing deeds, &c. in India.

2. THE Secretary of State in Council may be named as a party to any such deed, contract, or other instrument; and it shall be sufficient to use the designation of Secretary of State in Council in such deed, contract, or other instrument; and the same may be expressed to be executed on behalf of the Secretary of State in Council, by or by order of the Governor General in Council, Governor in Council, Lieutenant Governor of the North-western Provinces, or other officer intrusted as aforesaid, but may be executed in other respects in like manner as other instruments executed by or on behalf of him or them respectively in his or their official capacity, and may be enforced by or against the Secretary of State in Council for the time being; and neither

Secretary of State, &c. not to be personally liable.

the Secretary of State, nor any member of the Council, nor any person executing such deed, contract, or other instrument, shall be personally liable in respect thereof; and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of India.

Mode of signing drafts or orders on Bank of England.

3. Notwithstanding anything contained in the said Act, it shall be lawful for the Governor and Company of the Bank of England to pay out all or any of the moneys paid to the credit of the account opened under the said Act by the Governor and Company of the Bank of England, intituled "The Account of the Secretary of State in Council of India," upon any drafts or orders signed by the Accountant General on the establishment of the Secretary of State in Council, or by either of the two senior clerks in the department of the said Accountant General, and countersigned in such manner as the Secretary of State for India in Council shall from time to time order or establish; and any draft or order signed and countersigned as aforesaid, or in manner directed by the said Act, shall effectually discharge the Bank of England for all moneys paid upon the same.

Validity of contracts, &c. entered into before the passing of this Act.

4. If before the passing of this Act any contracts or assurances shall have been entered into or made on behalf of the Secretary of State in Council, or the Government of India, by any person in India who, previously to the commencement of the said Act, would have been authorized to enter into and make the same on behalf of the East India Company, such contracts or assurances shall have the same validity in favour of and against the Secretary of State in Council, as they would have had in favour of and against the said Company if made on behalf of the said Company, and if the said Act had not been passed; but neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contracts or assurances; and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of India.

Mode of executing contracts.

5. All contracts purporting to be entered into by the Secretary of State in Council which shall have been previous to the passing of this Act made under the hands and seals or hands of three or more members of Council shall be as valid and effectual, to all intents and purposes whatsoever, as the same would have been if section forty of the said Act had contained an express provision that the contracts to be entered into by the Secretary of State in Council pursuant to that Act might be so made; and from and after the passing of this Act all contracts in writing entered into by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting, may be expressed to be made by the Secretary of State in Council under that designation, and, if such as, if made between private persons, would be by law required to be under seal, may be made, varied, or discharged under the hands and seals of two

members of the Council, or, if such as, if made between private persons, would be by law required to be signed by the parties to be charged therewith, may be made, varied, or discharged under the hands of two members of the Council; and the benefit and liability of such contracts shall pass to the Secretary of State in Council for the time being.

Actions to be carried on in name of Secretary of State for India in Council.

6. ALL actions, suits, and proceedings in any court of justice in respect of any of the matters aforesaid shall and may be carried on, prosecuted, or defended in the name of the Secretary of State for India in Council.

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22 & 23 VICTORIA. A. D. 1859.

CHAPTER LXIII.

An Act to afford Facilities for the more certain Ascertainment of the Law administered in one Part of Her Majesty's Dominions when pleaded in the Courts of another Part thereof. [*13th August 1859.*]

WHEREAS great improvement in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof: Be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a court in any other part thereof.

1. IF in any action depending in any court within Her Majesty's dominions, it shall be the opinion of such court, that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's dominions on any point on which the law of such other part of Her Majesty's dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing; and upon such case being approved of by such court or a judge thereof, they shall settle the questions of law arising out of the same on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's dominions, being one of the superior courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case,

and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained, praying such last-mentioned court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel; and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper.

Certified copies of opinion to be given.

2. Upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion.

Opinion to be applied by the court making the remit, &c.

3. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the court in which the action may be depending, who may have the official charge thereof, together with a notice of motion, setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case herein-before specified; and the said court shall thereupon apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury; or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence, or conclusive evidence, as the court may think fit, of the foreign law therein stated; and the said opinion shall be so submitted to the jury.

Her Majesty in Council or House of Lords on appeal may adopt or reject opinion.

4. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any court whose judgments are reviewable by Her Majesty in Council or by the House of Lords; and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them, as the same shall appear to them to be well founded or not in law.

Interpretation of terms.

5. In the construction of this Act, the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical;

and the words "Superior Courts" shall include, in England, the Superior Courts of law at Westminister, the Lord Chancellor, the Lords Justices, the Master of the Rolls or any Vice Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in Scotland, the High Court of Justiciary, and the Court of Session acting by either of its divisions; in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein.

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23 & 24 VICTORIA. A. D. 1860.

Chapter V.

An Act to regulate Probate and Administration with respect to certain Indian Government Securities; to repeal certain Stamp Duties; and to extend the Operation of the Act of the Twenty-second and Twenty-third Years of Victoria, Chapter Thirty-nine, to Indian Bonds. [*23rd March 1860.*]

Whereas at various times the Executive Government of India has raised moneys for the public service by the issue of Government promissory notes and by Government loans severally payable in India; and by various public notifications of the said Government, or regulations to be made by the Secretary of State in Council, the owners of such notes have been or may be allowed the privilege of having the current interest thereon made payable in London by drafts payable in India, and the holders or owners of shares or portions of such loans have been or may be allowed the privilege of having the same registered and made transferable and the interest thereon made payable in London: And whereas upon the death of the holders of notes as to which the said privilege shall have been claimed questions may arise as to the place in which the same are properly to be deemed assets of the deceased owner; and it is for the convenience and advantage of the estates of such persons that the same should be deemed assets in this country and not in India: And whereas by an Act passed in the session holden in the fifth and sixth years of the reign of his late Majesty King William the Fourth, chapter sixty-four, section five, the transfer of any part of the territorial debt of the East India Company in India in the books of the said Company in England, whether upon a sale thereof or otherwise, was made chargeable with a stamp duty of one pound ten shillings: and it is expedient to repeal so much of the said Act as imposes the said stamp duty: And whereas under the authority of various Acts of Parliament the East India Company were

5 & 6 Will. 4. c. 64. s. 5.

empowered to raise money upon bonds to be issued under their common seal; and the said bonds formerly constituted the bond debt of the East India Company, and are commonly designated East India bonds: And whereas by an Act passed in the session holden in the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six, section sixty-seven, all liabilities of the East India Company were transferred to the Secretary of State in Council: And whereas by an Act passed in the last session of Parliament, chapter thirty-nine, power was given to the Secretary of State in Council to raise money by bonds or debentures or the creation of a capital stock or annuities upon or for the repayment of any principal money secured under the authority of the said Act or of either of the Acts therein recited: And whereas it is expedient to extend such power of raising money to the repayment of any of the East India bonds aforesaid: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

21 & 22 Vict. c. 106. s. 67.

22 & 23 Vict. c. 39.

Indian Government notes on which interest is payable in London, &c. to be deemed bona notabilia in England, &c.

1. All Indian Government promissory notes, and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in London by drafts payable in India, and which at the decease of the owner thereof shall have been registered in the books of the Secretary of State in Council in London, or in the books of the Governor and Company of the Bank of England, or shall have been enfaced in India for the purpose of being so registered before the decease of the owner thereof, and all Indian Government promissory notes issued with coupons attached, which, under such regulations and conditions as may be determined from time to time by the Secretary of State in Council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and bona notabilia of such deceased person in England; and probate or letters of administration in England, or confirmation granted in Scotland, and sealed with the seal of the principal Court of Probate in England, in pursuance of the provisions of the "Confirmation and Probate Act, 1858," shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and moneys as aforesaid.

21 & 22 Vict. c. 56.

Repeal of 5 & 6 Will. 4. c. 64. s. 5. in part.

2. So much of the fifth section of the said first-recited Act as enacts that every transfer of any part of the said territorial debt in the books of the East India Company in England, whether upon a sale thereof or otherwise, shall be chargeable with a stamp duty of one pound ten shillings and no more, is hereby repealed; and no transfer of any part of the said territorial debt or of

Transfers of

territorial debt, &c. not chargeable with stamp duty.

Indian Government loans registered and transferable in the books of the Secretary of State in Council in London, or in the books of the Governor and Company of the Bank of England, shall be chargeable with any stamp duty.

Power to raise money under 22 & 23 Vict. c. 39 extended to borrowing for repayment of East India bonds.

3. UPON or for the repayment of any principal money secured by the said bonds, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes authorized by the said recited Act passed in the session holden in the twenty-second and twenty-third years of Her present Majesty, chapter thirty-nine, all or any part of the principal money so repaid or to be repaid, and so from time to time as all or any part of the principal money secured by the said bonds may have been repaid or require to be repaid; but the amount to be charged upon the revenues of India shall not in any case exceed the principal money repaid or required to be repaid; and the provisions of the said recited Act with reference to the creation of the capital stock and annuities created under the authority of the said Act, and with reference to the issue, payment, and transfer of the capital stock, annuities, bonds, and debentures issued under the authority of the said Act, shall be held to be in force and to apply to the creation, issue, payment and transfer of the capital stock, annuities, bonds, and debentures created and issued under the authority of this Act.

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23 & 24 VICTORIA. A. D. 1860.

CHAPTER LXXXVIII.

An Act to extend certain Provisions for Admiralty Jurisdiction in the Colonies to Her Majesty's Territories in India. [*13th August 1860.*]

12 & 13 Vict. c. 96.

WHEREAS an Act was passed in the session holden in the twelfth and thirteenth years of Her Majesty, chapter ninety-six, "to provide for the "prosecution and trial in Her Majesty's colonies of offences committed

Sect. 5.

"within the jurisdiction of the Admiralty"[a]; and by such Act it was provided, that for the purposes thereof the word "colony" should mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except the United Kingdom and the Islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto respectively, and except also all such parts and places as were under the government of the East India Company: And whereas it is expedient that the provisions of the said Act should extend to all parts and places heretofore under the government of the East India Company in like manner as to other colonial and foreign possessions of Her

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[a] See above, p. 370.

Majesty: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. . . . . for the purposes of the said Act the word "colony" therein shall include and apply to every part and place heretofore under the government of the East India Company, or which may be under the government of Her Majesty in India; and all the provisions of the said Act shall be construed and take effect accordingly.

The word "colony" in the recited Act to include India.

2. PROVIDED always, that where any person within any place in India is charged with the commission of any offence in respect of which jurisdiction is given by the said Act, or where any person charged with the commission of any such offence is brought for trial under the said Act to any place in India, if at any time before his trial he make it appear to the court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the Supreme Court of one of the three Presidencies in India, and claim to be tried by such a Supreme Court accordingly, the said court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the governor of such place or chief local authority thereof; and such governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the Presidencies as such governor shall think fit for trial before the Supreme Court of such Presidency; and the said Supreme Court and all public officers and other persons in the Presidency shall have the same jurisdiction and authorities, and proceed in the same manner in relation to the person charged with such offence, as if the same had been committed or originally charged to have been committed within the limits of the ordinary jurisdiction of such Supreme Court.

Proceedings in case of persons entitled to be tried by the Supreme Court of a Presidency.

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23 & 24 VICTORIA. A. D. 1860.

CHAPTER C.

An Act to repeal so much of the Act of the Twenty-second and Thirty-third Victoria, Chapter Twenty-seven, and of certain other Acts, as authorises the Secretary of State in Council to give Directions for raising European Forces for the Indian Army of Her Majesty. [*20th August 1860.*]

WHEREAS it is not expedient that a separate European force should be continued for the local service of Her Majesty in India: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the

lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal of 22 & 23 Vict. c. 27., &c. in part.

So much of the Act of Parliament of the twenty-second and twenty-third of Her Majesty, chapter twenty-seven, intituled "An Act to repeal the thirty-"first section of sixteen and seventeen Victoria, chapter ninety-five, and to "alter the limit of the number of European troops to be maintained for local "service in India," and of any former Act or Acts of Parliament, as renders it lawful for the Secretary of State in Council from time to time to give such directions as he may think fit for raising such number of European forces as he may judge necessary for the Indian Army of Her Majesty, is hereby repealed: Provided always, that the same or equal provision for the sons of persons who have served in India, and the advantages as to pay, pensions, allowances, privileges, promotion, and otherwise, secured to the military forces of the East India Company by the Act of the twenty-first and twenty-second years of the Queen, chapter one hundred and six, sections thirty-five, fifty-six, and fifty-eight, respectively, shall be maintained in any plan for the reorganization of the Indian Army, anything in this Act contained notwithstanding.

Provision for sons of persons who have served in India and advantages as to pay, &c. to be maintained.

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23 & 24 VICTORIA. A. D. 1860.

CHAPTER CXXII.

An Act to enable the Legislatures of Her Majesty's Possessions abroad to make Enactments similar to the Enactment of the Act Ninth George the Fourth Chapter Thirty-one, Section Eight. [*28th August 1860.*]

9 Geo. 4. c. 31. s. 8.

WHEREAS by an Act passed in the ninth year of His late Majesty George the Fourth, intituled "An Act for consolidating and amending the statutes in England relating to offences against the person," it was enacted (amongst other things), that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place in England, should die of such stroke, poisoning, or hurt upon the sea or at any place out of England, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, might be dealt with, inquired for tried, determined, and punished in the country or place in England in which such stroke, poisoning, or hurt should happen, in the same manner in all respects as if such offence had been wholly committed in that country or place: And whereas it may be desirable that provisions similar or analogous to the above-recited provisions should be made with respect to offences committed within Her Majesty's possessions abroad: And whereas doubts are entertained whether it is competent to the legislature of any such possession to make such

provision: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Legislatures of possessions abroad may legislate for trial, &c. of offences committed in such possessions, where persons injured die out of the limits thereof.

1. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession; or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.

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23 & 24 VICTORIA. A. D. 1860.

Chapter CXXX.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*28th August 1860.*]

Whereas the exigencies of the public service in India require that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Secretary of State in Council of India may raise any sum not exceeding three millions.

1. It shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty-one, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole three millions; and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Issue of bonds under this Act.

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

Issue of debentures under this Act.

3. ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

Payment of principal and interest on debentures.

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England.

Debentures to be transferable by delivery or deed.

Coupons for interest to pass by delivery.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed; provided, that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery.

Issue, &c. of capital stock and annuities.

6. ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

7. IN case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties

making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law; and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities under this Act to be deemed personal estate.

8. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise.

The whole amount charged on the revenues of India under this Act not to exceed three millions, &c.

9. The whole amount of the principal monies to be charged on the revenues of India under this Act shall not exceed three millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and sixty-one, or, if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal monies previously secured under this Act as herein-after provided.

Power to raise money for repayment of principal.

10. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

Bonds, &c. to be charged on the revenues of India.

11. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

5 & 6 Will. 4 c. 64. s. 4. as to composition for stamp duties to apply to bonds and debentures under this Act.

12. The provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this

Act, as if such provisions were here repeated and re-enacted with reference thereto.

Enactments as to forgery of East India bonds to apply to debentures and bonds under this Act.

13. [a] ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

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Saving of existing powers of borrowing.

15. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

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24 VICTORIA. A. D. 1861.

CHAPTER IV.

An Act for amending the Red Sea and India Telegraph Act, 1859.

[*22nd March 1861.*]

WHEREAS in the year one thousand eight hundred and fifty-eight a joint stock company was incorporated, under the Joint Stock Companies Act, 1856, by the name of "The *Red Sea* and *India* Telegraph Company, Limited," for the purpose of establishing telegraphic communication between *England* and *India* by the *Red Sea*: And whereas by an indenture of agreement, dated the eighteenth day of *November* one thousand eight hundred and fifty-eight, and made between the Right Honourable *Edward Geoffrey* Earl of *Derby* and the Right Honourable *Benjamin D'Israeli*, two of the Lords Commissioners of Her Majesty's Treasury, of the one part, and the said company of the other part, it was, amongwst other things, provided as follows: "That the Lords Commis- "sioners of her Majesty's Treasury shall guarantee to the company (subject to "such confirmation by Act of Parliament as herein-after mentioned) that during "the period of fifty years from the fourth day of *August* in the year of our Lord "one thousand eight hundred and fifty-eight the net receipts available for divi- "dends upon each half-yearly statement of accounts, after payment of working "expenses, as herein-after mentioned, shall be equal to interest or dividend at "the rate of four and a half *per centum per annum* at the least upon the amount "of the capital for the time being *bonâ fide* called and paid up for the purpose of "the company's undertaking, not exceeding in any case, except as herein-after

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[a Section 13 is repealed, except as to Scotland, 24 & 25 Vict. c. 95. s. 1.]

"mentioned, the sum of eight hundred thousand pounds, and shall, if and so "often as during the said period of fifty years upon any half-yearly statement "of accounts the net receipts available for dividend after the payment of work- "ing expenses shall not be equal to interest or dividend at the rate of two and "a quarter *per centum* for the half year upon the above-mentioned amount of "capital, pay and make good such deficiency to the company; provided always, "that in the calculation of the amount to which the company are entitled upon "this guarantee all capital paid up in the course of the current half year shall be "taken to be entitled to interest or dividend at the above-mentioned rate only "from the time when the same was so paid up; provided also, that all amounts "paid by the lords commissioners under this guarantee shall be a charge upon "the company, to be repaid out of future surplus profits, as herein-after pro- "vided": And whereas the said company was afterwards incorporated by the *Red Sea* and *India* Telegraph Act, 1859, and the said indenture of agreement was by the said Act confirmed: And whereas doubts are entertained whether the said agreement empowers the said commissioners to give effect to such guarantee, except during such time as the line of telegraph of the company is in working order: And whereas it is expedient that such doubts should be removed: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Construction of agreement.

1. IT is hereby declared, that the guarantee contained in the said agreement was not intended to be and is not conditional on the line of telegraph of the company being in working order.

Acts to be construed together.

2. THIS Act and the *Red Sea* and *India* Telegraph Act, 1859, shall be construed together as one Act.

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24 VICTORIA. A. D. 1861.

CHAPTER XI.

An Act to afford Facilities for the better Ascertainment of the Law of Foreign Countries when pleaded in Courts within Her Majesty's Dominions.

[*17th May 1861.*]

22 & 23 Vict. c. 63.

WHEREAS an Act was passed in the twenty-second and twenty-third years of Her Majesty's reign, intituled "An Act to afford facilities for the more cer- "tain ascertainment of the law administered in one part of Her Majesty's domi- "nions when pleaded in the courts of another part thereof": And whereas it is expedient to afford the like facilities for the better ascertainment, in similar

circumstances, of the law of any foreign country or state with the Government of which Her Majesty may be pleased to enter into a convention for the purpose of mutually ascertaining the law of such foreign country or state when pleaded in actions depending in any courts within Her Majesty's dominions and the law as administered in any part of Her Majesty's dominions when pleaded in actions depending in the courts of such foreign country or state: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; viz.,

Superior Courts within Her Majesty's dominions may remit a case, with queries, to a court of any foreign state with which Her Majesty may have made a convention for that purpose, for ascertaining the law of such state as to the facts in question.

1. If, in any action depending in any of the Superior Courts within Her Majesty's dominions, it shall be the opinion of such court that it is necessary or expedient, for the disposal of such action, to ascertain the law applicable to the facts of the case as administered in any foreign state or country with the Government of which Her Majesty shall have entered into such convention as aforesaid, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of jury or other mode competent, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing; and upon such case being approved of by such court or a judge thereof, such court or judge shall settle the questions of law arising out of the same on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to such superior court in such foreign state or country as shall be agreed upon in said convention, whose opinion is desired upon the law administered by such foreign court as applicable to the facts set forth in such case, and requesting them to pronounce their opinion on the questions submitted to them; and upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be deemed and held to contain a correct record of such opinion.

Copy of opinion to be lodged in court in which action depends.

2. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with the officer of the court within Her Majesty's dominions in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case herein-before specified; and the said court shall thereupon, if it shall see fit, apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury; or the said

Court to apply opinion to the facts set forth in the case, &c.

last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as conclusive evidence of the foreign law therein stated; and the said opinion shall be so submitted to the jury: Provided always, that if after having obtained such certified copy the court shall not be satisfied that the facts had been properly understood by the foreign court to which the case was remitted, or shall on any ground whatsoever be doubtful whether the opinion so certified does correctly represent the foreign law as regards the facts to which it is to be applied, it shall be lawful for such court to remit the said case, either with or without alterations or amendments, to the same or to any other such superior court in such foreign state as aforesaid, and so from time to time as may be necessary or expedient.

Remitter of case back to foreign court.

3. If in any action depending in any court of a foreign country or state with whose Government Her Majesty shall have entered into a convention as above set forth, such court shall deem it expedient to ascertain the law applicable to the facts of the case as administered in any part of Her Majesty's dominions, and if the foreign court in which such action may depend shall remit to the court in Her Majesty's dominions whose opinion is desired a case setting forth the facts and the questions of law arising out of the same on which they desire to have the opinion of a court within Her Majesty's dominions, it shall be competent to any of the parties to the action to present a petition to such last-mentioned court, whose opinion is to be obtained, praying such court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel; and the court to which such petition shall be presented shall consider the same, and, if they think fit, shall appoint an early day for hearing parties or their counsel on such case, and shall pronounce their opinion upon the questions of law as administered by them which are submitted to them by the foreign court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper; and upon such opinion being pronounced a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required.

Courts in Her Majesty's dominions shall pronounce opinion on case remitted by a foreign court.

4. In the construction of this Act the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical; and the words "Superior Courts" shall include, in England, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the judge of the Court of Admiralty, the judge ordinary of the Court for Divorce and Matrimonial Causes, and the judge of the Court of Probate; in Scotland, the High Court of Justiciary, and

Interpretation of terms.

the Court of Session, acting by either of its divisions; in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls, and the judge of the Admiralty Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein; and in a foreign country or state, any superior court or courts which shall be set forth in any such convention between Her Majesty and the Government of such foreign country or state.

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER XXV.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*28th June 1861.*]

WHEREAS the exigencies of the public service in India require that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Secretary of State in Council of India may raise any sum not exceeding four millions.

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole four millions; and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.[a]

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER LIV.

An Act to confirm certain Appointments in India, and to amend the Law concerning the Civil Service there.

[*1st August 1861.*]

33 Geo. 3. c. 52. s. 56.

WHEREAS by section fifty-six of an Act of the thirty-third year of King George the Third, chapter fifty-two, it was enacted that all the civil servants

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[a] The rest of this Statute is omitted as being, *mutatis mutandis*, identical with 23 & 24 Vict., c. 130, *supra*, p. 685.

of the East India Company in India under the rank or degree of members of council should have and be entitled to precedence in the service of the said Company at their respective stations according to their seniority of appointment, and that no such civil servant should be capable of being advanced or promoted to any higher station, rank, or degree therein than he should be entitled to according to the length of his service; and by section fifty-seven of the same Act it was enacted that all vacancies happening in any of the offices, places, or employments in the civil line of the Company's service in India (being under the degree of counsellor) should be from time to time filled up and supplied from amongst the civil servants of the said Company belonging to the presidency wherein such vacancies should respectively happen: And whereas by reason of the exigencies of the public service vacancies in certain offices, places, and employments in India have been filled up by the appointment of persons not being civil servants, or not being civil servants belonging to the presidency wherein the vacancies have happened, and otherwise not in accordance with the provisions of the said enactments; and it is expedient that such appointments should be rendered valid, and also that the authorities in India should be empowered to make such appointments in like cases in future: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: Sect. 57.

Appointments not in accordance with 33 Geo. 3. c. 52. valid.

1. ALL appointments made by the authorities in India to any such offices, places, or employments, shall be and be deemed to have been as valid and effectual as if the Act herein-before recited or referred to had not been passed.

Vacancies in certain offices to be supplied by covenanted civil servants.

2. ALL vacancies happening in any of the offices, places, or employments specified in the schedule annexed to this Act, and all such offices which may be created hereafter, shall be filled up and supplied, except as herein-after provided, from amongst the covenanted civil servants of the Crown in India.

Persons not covenanted civil servants may, under special circumstances, be appointed to such offices, subject to certain restrictions.

3. WHERE it appears to the authority in India by whom an appointment should be made to any office, place, or employment specified in the said schedule, that such appointment, under the special circumstances of the case, should be made without regard to the recited qualifications, conditions, and restrictions of the said Act, it shall be lawful for such authority to make such appointment accordingly; provided, that no person shall be so appointed who has not resided for at least seven years in India, and that every person previously to his being so appointed to any of the offices in the Revenue and Judicial Departments specified in the said schedule shall pass an examination in the vernacular language of the district in which he is to be employed, where such examination is now required, and shall be subject to all the

departmental tests and other qualifications and restrictions which are or may be imposed in the like case on covenanted civil servants.

Such appointment in each case to be reported to the Secretary of State, &c.

4. EVERY such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State in Council of India, together with the special reasons for making the same; and unless the Secretary of State in Council shall approve such appointment, with the concurrence of a majority of members present at a meeting, and shall within twelve months from the date of such appointment notify such approval to the authority by whom the appointment was made, then such appointment shall be cancelled.

Certain offices may be filled up without regard to restrictions prescribed by recited Act.

5. ALL vacancies happening in any other offices, places, or employments than those mentioned in the said schedule, and all other offices than those so mentioned that may hereafter be created in India, may be filled up and supplied without regard to the qualifications, conditions, and restrictions prescribed by the said Act.

Act not to apply to office of Lieutenant Governor, &c.

6. PROVIDED always, that this Act shall not apply to the office of Lieutenant Governor of any part of Her Majesty's dominions in India, or to any offices for the supply of which provision may be made by any other Act of the present session of Parliament.

Repeal of 33 Geo. 3. c. 52. s. 56, &c.

7. SECTION fifty-six of the said Act of the thirty-third year of King George the Third, and so much of the other sections of the said Act and of any other Act now in force as requires seniority as a condition or qualification for the appointment of civil servants to offices, places, or employments, shall be repealed.

SCHEDULE.

SECRETARIES, Junior Secretaries, and Under-Secretaries to the several Governments in India, except the Secretaries, Junior Secretaries, and Under Secretaries in the Military, Marine and Public Works Departments.

Accountant General.[a]

Civil auditor.[b]

Sub-treasurer.[c]

Judicial.

1. Civil and session judges, or chief judicial officers of districts in the provinces now known as Regulation Provinces.
2. Additional and assistant judges in the said provinces.
3. Magistrates or chief magisterial officers of districts in the said provinces.
4. Joint magistrates in the said provinces.
5. Assistant magistrates or assistants to magistrates in the said provinces.

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[a] Now called Comptroller General. [b, c] Non-existent.

Revenue.

1. Members of the Board of Revenue in the Presidencies of Bengal and Madras.
2. Secretaries to the said Boards of Revenue.
3. Commissioners of Revenue or chief Revenue officers of divisions in the provinces now known as Regulation Provinces.
4. Collectors of Revenue or chief Revenue officers of districts in the said provinces.
5. Deputy or subordinate collectors where combined with the office of joint magistrate in the said provinces.
6. Assistant collectors or assistants to collectors in the said provinces.
7. Salt agents.
8. Controller of salt chowkies.
9. Commissioners of Customs, salt, and opium.
10. Opium agents.

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER LXVII.

An Act to make better Provision for the Constitution of the Council of the Governor General of India, and for the Local Government of the several Presidencies and Provinces of India, and for the temporary Government of India in the Event of a Vacancy in the Office of Governor General.

[*1st August 1861.*]

WHEREAS it is expedient that the provisions of former Acts of Parliament respecting the constitution and functions of the Council of the Governor General of India should be consolidated and in certain respects amended, and that power should be given to the Governors in Council of the Presidencies of Fort Saint George and Bombay to make laws and regulations for the government of the said Presidencies; and that provision should be made for constituting the like authority in other parts of Her Majesty's Indian dominions: Be it therefore declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The Indian Councils Act, 1861."

Acts and parts of Acts repealed.

2. SECTIONS forty, forty-three, forty-four, fifty, sixty-six, seventy, and so much of sections sixty-one and sixty-four as relates to vacancies in the office of ordinary member of the Council of India, of the Act of the third and fourth years of King William the Fourth, chapter eighty-five, for effecting an

arrangement with the East India Company, and for the better government of Her Majesty's Indian territories, till the thirtieth day of April one thousand eight hundred and fifty-four, sections twenty-two, twenty-three, twenty-four, and twenty-six of the Act of the sixteenth and seventeenth years of Her Majesty, chapter ninety-five, "to provide for the government of India," and the Act of the twenty-third and twenty-fourth years of Her Majesty, chapter eighty-seven, "to remove doubts as to the authority of the senior "member of the Council of the Governor General of India in the absence of "the president," are hereby repealed; and all other enactments whatsoever now in force with relation to the Council of the Governor General of India, or to the Councils of the Governors of the respective Presidencies of Fort Saint George and Bombay, shall, save so far as the same are altered by or are repugnant to this Act, continue in force, and be applicable to the Council of the Governor General of India and the Councils of the respective Presidencies under this Act.

Composition of the Council of the Governor General of India.

3. THERE shall be five ordinary members of the said Council of the Governor General, three of whom shall from time to time be appointed . . . . . from among such persons as shall have been, at the time of such appointment, in the service in India of the Crown, or of the Company and the Crown, for at least ten years; and if the person so appointed shall be in the military service of the Crown, he shall not, during his continuance in office as a member of Council, hold any military command, or be employed in actual military duties; and the remaining two, one of whom shall be a barrister or a member of the Faculty of Advocates in Scotland of not less than five years standing, shall be appointed from time to time by Her Majesty by warrant under Her Royal Sign Manual; and it shall be lawful for the Secretary of State in Council to appoint the Commander-in-Chief of Her Majesty's Forces in India to be an extraordinary member of the said Council, and such extraordinary member of Council shall have rank and precedence at the Council Board next after the Governor General.

Present members of Council to continue.

Appointment of fifth member, and salaries of members, &c.

4. THE present ordinary members of the Council of the Governor General of India shall continue to be ordinary members under and for the purposes of this Act; and it shall be lawful for Her Majesty, on the passing of this Act, to appoint by warrant as aforesaid an ordinary member of Council, to complete the number of five hereby established; and there shall be paid to such ordinary member, and to all other ordinary members who may be hereafter appointed, such amount of salary as may from time to time be fixed for members of the Council of the Governor General by the Secretary of State in Council, with the concurrence of a majority of members of Council present at a meeting; and all enactments of any Act of Parliament or law of India

respecting the Council of the Governor General of India and the members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any provisions of this Act.

Provisional appointments of members of Council.

5. It shall be lawful for the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, and for Her Majesty, by warrant as aforesaid, respectively, to appoint any person provisionally to succeed to the office of ordinary member of the Council of the Governor General, when the same shall become vacant by the death or resignation of the person holding the said office, or on his departure from India with intent to return to Europe, or on any event and contingency expressed in any such provisional appointment, and such appointment again to revoke; but no person so appointed to succeed provisionally to such office shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office.

Provisions during absence of Governor General in other parts of India.

6. Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any part of India unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the departure of the said Governor General, to nominate some member of the said Council to be president of the said Council, in whom, during the time of such visit, the powers of the said Governor General in assemblies of the said Council shall be reposed, except that of assenting to or withholding his assent from, or reserving for the signification of Her Majesty's pleasure, any law or regulation, as herein-after provided; and it shall be lawful in every such case for the said Governor General in Council, by an order for that purpose to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the said Governor General in Council in every case in which the said Governor General may think it expedient to exercise the same, except the power of making laws or regulations.

Provisions in case of absence of Governor General, &c. from meeting of Council.

7. Whenever the Governor General, or such president so nominated as aforesaid, shall be obliged to absent himself from any meeting of Council (other than meetings for the purpose of making laws and regulations, as herein-after provided,) owing to indisposition or any other cause whatsoever, and shall signify his intended absence to the Council, then and in every such case the senior member for the time being who shall be present at such meeting shall preside thereat, in such manner, and with such full powers and authorities during the time of such meeting, as such Governor General or president would have had in case he had been present at such meeting: Provided always, that no act of Council made at any such meeting shall be

valid to any effect whatsoever unless the same shall be signed by such Governor General or president respectively, if such Governor General or president shall at the time be resident at the place at which such meeting shall be assembled, and shall not be prevented by such indisposition from signing the same: Provided always, that in case such Governor General or president, not being so prevented as aforesaid, shall decline or refuse to sign such act of Council, he, and the several members of Council who shall have signed the same, shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner and subject to such regulations and ultimate responsibility as are by an Act of the thirty-third year of King George the Third, chapter fifty-two, sections forty-seven, forty-eight, forty-nine, fifty, and fifty-one, provided and described in cases where such Governor General shall, when present, dissent from any measure proposed or agitated in the Council.

33 Geo. 3. c. 52. ss. 47 to 51.

Power of Governor General to make rules for conduct of business.

8. It shall be lawful for the Governor General from time to time to make rules and orders for the more convenient transaction of business in the said Council; and any order made or act done in accordance with such rules and orders (except as hereafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor General in Council.

Council, where to assemble.

9. The said Council shall from time to time assemble at such place or places as shall be appointed by the Governor General in Council within the territories of India; and as often as the said Council shall assemble within either of the Presidencies of Fort Saint George or Bombay, the Governor of such Presidency shall act as an extraordinary member of Council; and as often as the said Council shall assemble within any other division, province, or territory having a Lieutenant Governor, such Lieutenant Governor shall act as an additional councillor at meetings of the Council, for the purpose of making laws and regulations only, in manner herein-after provided.

Additional members to be summoned for the purpose of making laws and regulations.

10. For the better exercise of the power of making laws and regulations vested in the Governor General in Council, the Governor General shall nominate, in addition to the ordinary and extraordinary members above mentioned, and to such Lieutenant Governor in the case aforesaid, such persons, not less than six nor more than twelve in number, as to him may seem expedient, to be members of Council for the purpose of making laws and regulations only; and such persons shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose: Provided, that not less than one half of the persons so nominated shall be non-official persons, that is, persons who, at the date of such nomination, shall not be in the civil or military service of the Crown in India; and that the seat in Council of any non-

official member accepting office under the Crown in India shall be vacated on such acceptance.

Such members to be appointed for two years.

11. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations, for the term of two years from the date of such nomination.

Resignation of additional members.

12. It shall be lawful for any such additional member of Council to resign his office to the Governor General; and on acceptance of such resignation by the Governor General such office shall become vacant.

Power to fill up vacancy in number of additional members.

13. On the event of a vacancy occurring by the death, acceptance of office, or resignation, accepted in manner aforesaid, of any such additional member of Council, it shall be lawful for the Governor General to nominate any person as additional member of Council in his place, who shall exercise the same functions until the termination of the term for which the additional member so dying, accepting office, or resigning was nominated: Provided always, that it shall not be lawful for him by such nomination to diminish the proportion of non-official additional members herein-before directed to be nominated.

No law to be invalid by reason of number of non-official members being incomplete.

14. No law or regulation made by the Governor General in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby provided was not complete at the date of its introduction to the Council or its enactment.

Senior ordinary member of Council to preside at meetings for making laws and regulations in absence of Governor General, &c.

Quorum.

15. In the absence of the Governor General and of the president, nominated as aforesaid, the senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations; and the power of making laws and regulations vested in the Governor General in Council shall be exercised only at meetings of the said Council at which such Governor General or president, or some ordinary member of Council, and six or more members of the said Council, (including under the term members of the Council such additional members as aforesaid,) shall be present; and in every case of difference of opinion at meetings of the said Council for making laws and regulations, where there shall be an equality of voices, the Governor General, or in his absence the president, and in the absence of the Governor General and president such senior ordinary member of Council there presiding, shall have two votes or the casting vote.

Governor General to appoint first meeting for making laws and regulations.

16. The Governor General in Council shall, as soon as conveniently may be, appoint a place and time for the first meeting of the said Council of the Governor General for making laws and regulations under this Act, and summon thereto as well the additional councillors nominated by and under this Act as the other members of such Council; and until such first meeting the

powers now vested in the said Governor General of India in Council of making laws and regulations shall and may be exercised in like manner and by the same members as before the passing of this Act.

Power to appoint and adjourn meetings for making laws and regulations.

17. It shall be lawful for the Governor General in Council from time to time to appoint all other times and places of meeting of the Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such president, or senior ordinary member of Council in his absence, to adjourn any meeting for the purpose of making laws and regulations from time to time and from place to place.

Rules for conduct of business at such meetings.

18. It shall be lawful for the Governor General in Council to make rules for the conduct of business at meetings of the Council for the purpose of making laws and regulations under the provisions of this Act, prior to the first of such meetings; but such rules may be subsequently amended at meetings for the purpose of making laws or regulations, subject to the assent of the Governor General; and such rules shall prescribe the mode of promulgation and authentication of such laws and regulations: Provided always, that it shall be lawful for the Secretary of State in Council to disallow any such rule, and to render it of no effect.

Business to be transacted at such meetings.

19. No business shall be transacted at any meeting for the purpose of making laws and regulations, except as last herein-before provided, other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor General, any measure affecting,—

1st. The public debt or public revenues of India, or by which any charge would be imposed on such revenues:

2nd. The religion or religious rights and usages of any class of Her Majesty's subjects in India:

3rd. The discipline or maintenance of any part of Her Majesty's Military or Naval Forces

4th. The relations of the Government with foreign princes or states.

Assent of Governor General to laws and regulations made at such meetings.

20. When any law or regulation has been made by the Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the

same, or that he withholds his assent from the same, or that he reserves the same for the signification of the pleasure of Her Majesty thereon; and no such law or regulation shall have validity until the Governor General shall have declared his assent to the same, or until (in the case of a law or regulation so reserved as aforesaid) Her Majesty shall have signified her assent to the same to the Governor General, through the Secretary of State for India in Council, and such assent shall have been duly proclaimed by the said Governor General.

Power of the Crown to disallow laws and regulations made at such meetings.

21. WHENEVER any such law or regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such law; and such disallowance shall make void and annul such law from or after the day on which the Governor General shall make known, by proclamation or by signification to his Council, that he has received the notification of such disallowance by Her Majesty.

Extent of the powers of the Governor General in Council to make laws and regulations at such meetings.

22. THE Governor General in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for repealing, amending, or altering any laws or regulations whatever now in force or hereafter to be in force in the Indian territories now under the dominion of Her Majesty, and to make laws and regulations for all persons, whether British or native, foreigners or others, and for all courts of justice whatever, and for all places and things whatever within the said territories, and for all servants of the Government of India within the dominions of princes and states in alliance with Her Majesty[a]; and the laws and regulations so to be made by the Governor General in Council shall control and supersede any laws and regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of Fort St. George and Bombay respectively in Council, or the Governor or Lieutenant Governor in Council of any presidency or other territory for which a Council may be appointed, with power to make laws and regulations, under and by virtue of this Act: Provided always, that the said Governor General in Council shall not have the power of making any laws or regulations which shall repeal or in any way affect any of the provisions of this Act:

Or any of the provisions of the Acts of the third and fourth years of King William the Fourth, chapter eighty-five, and of the sixteenth and seventeenth years of Her Majesty, chapter ninety-five, and of the

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a See also 28 Vict., c. 17, s. 1, and 32 & 33 Vict., c. 98, s. 1.

seventeenth and eighteenth years of Her Majesty, chapter seventy-seven, which after the passing of this Act shall remain in force:

Or any provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six, entitled "An Act for the better government of India," or of the Act of the twenty-second and twenty-third years of Her Majesty, chapter forty-one, to amend the same:

Or of any Act enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India:

Or of the Acts for punishing mutiny and desertion in Her Majesty's Army or in Her Majesty's Indian Forces respectively; but subject to the provision contained in the Act of the third and fourth years of King William the Fourth, chapter eighty-five, section seventy-three, respecting the Indian articles of war:

Or any provisions of any Act[a] passed in this present session of Parliament, or hereafter to be passed, in anywise affecting Her Majesty's Indian territories, or the inhabitants thereof:

Or which may affect the authority of Parliament, or the constitution and rights of the East India Company, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the Crown over any part of the said territories.

Governor General may make ordinances having force of law in cases of urgent necessity.

23. NOTWITHSTANDING anything in this Act contained, it shall be lawful for the Governor General, in cases of emergency, to make and promulgate from time to time ordinances for the peace and good government of the said territories or of any part thereof, subject however to the restrictions contained in the last preceding section; and every such ordinance shall have like force of law with a law or regulation made by the Governor General in Council, as by this Act provided, for the space of not more than six months from its promulgation, unless the disallowance of such ordinance by Her Majesty shall be earlier signified to the Governor General by the Secretary of State for India in Council, or unless such ordinance shall be controlled or superseded by some law or regulation made by the Governor General in Council at a meeting for the purpose of making laws and regulations as by this Act provided.

No law, &c. invalid by reason of its affecting the prerogative of the Crown.

24. No law or regulation made by the Governor General in Council (subject to the power of disallowance by the Crown, as herein-before provided,) shall be deemed invalid by reason only that it affects the prerogative of the Crown.

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[a] *Queen* v. *Meares*, 14 Beng. 106, 112.

25. WHEREAS doubts have been entertained whether the Governor General of India, or the Governor General of India in Council, had the power of making rules, laws, and regulations for the territories known from time to time as "Non-Regulation Provinces," except at meetings for making laws and regulations in conformity with the provisions of the said Acts of the third and fourth years of King William the Fourth, chapter eighty-five, and of the sixteenth and seventeenth years of Her Majesty, chapter ninety-five, and whether the Governor, or Governor in Council, or Lieutenant Governor of any presidency or part of India, had such power in respect of any such territories: Be it enacted, that no rule, law, or regulation which prior to the passing of this Act shall have been made by the Governor General, or Governor General in Council, or by any other of the authorities aforesaid, for and in respect of any such non-regulation province, shall be deemed invalid only by reason of the same not having been made in conformity with the provisions of the said Acts, or of any other Act of Parliament respecting the constitution and powers of the Council of India or of the Governor General, or respecting the powers of such Governors, or Governors in Council, or Lieutenant Governors as aforesaid.

Laws made for the non-regulation provinces declared valid.

26. IT shall be lawful for the Governor General in Council, or Governor in Council of either of the Presidencies, as the case may be, to grant to an ordinary member of Council leave of absence, under medical certificate, for a period not exceeding six months; and such member, during his absence, shall retain his office, and shall, on his return and resumption of his duties, receive half his salary [a] for the period of such absence; but if his absence shall exceed six months, his office shall be vacated.

Provision for leave of absence to an ordinary member of Council.

27. IF any vacancy shall happen in the office of an ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, when no person provisionally appointed to succeed thereto shall be then present on the spot, then, and on every such occasion, such vacancy shall be supplied by the appointment of the Governor General in Council, or the Governor in Council, as the case may be; and until a successor shall arrive the person so nominated shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office during his continuance therein, every such temporary member of Council foregoing all salaries and allowances by him held and enjoyed at the time of his being appointed to such office; and if any ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, shall, by any infirmity or otherwise, be rendered incapable of acting or of attending

Power of making temporary appointments of members of Council, &c.

[a] See 3 & 4 Wm. IV, c. 85, s. 77, *supra*, p. 239.

to act as such, or if any such member shall be absent on leave, and if any person shall have been provisionally appointed as aforesaid, then the place of such member absent or unable to attend shall be supplied by such person; and if no person provisionally appointed to succeed to the office shall be then on the spot, the Governor General in Council, or Governor in Council, as the case may be, shall appoint some person to be a temporary member of Council; and, until the return of the member so absent or unable to attend, the person so provisionally appointed by the Secretary of State in Council, or so appointed by the Governor General in Council, or Governor in Council, as the case may be, shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall receive half the salary of the member of Council whose place he supplies, and also half the salary of his office under the Government of India, or the Government of either of the Presidencies, as the case may be, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Government of India, or other Government as aforesaid: Provided always, that no person shall be appointed a temporary member of the said Council who might not have been appointed as hereinbefore provided to fill the vacancy supplied by such temporary appointment.

Governors of Fort Saint George and Bombay may make rules for the conduct of business in their Councils.

28. It shall be lawful for the Governors of the Presidencies of Fort Saint George and Bombay respectively from time to time to make rules and orders for the conduct of business in their Councils, and any order made or act done in accordance with such directions (except as herein-after provided respecting laws and regulations) shall be deemed to be the order or act of the Governor in Council.

Power to summon additional members to the Councils of Fort Saint George and Bombay for the purpose of making laws and regulations.

29. For the better exercise of the power of making laws and regulations herein-after vested in the Governors of the said Presidencies in Council respectively, each of the said Governors shall, in addition to the members whereof his Council now by law consists, or may consist, termed herein ordinary members, nominate to be additional members the Advocate General of the Presidency, or officer acting in that capacity, and such other persons, not less than four nor more than eight in number, as to him may seem expedient, to be members of Council, for the purpose of making laws and regulations only; and such members shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose; provided, that not less than half of the persons so nominated shall be non-official persons, as hereinbefore described; and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance.

Such members to be appointed for two years.

30. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations for the term of two years from the date of such nomination.

Resignation of additional members.

31. It shall be lawful for any such additional member of Council to resign his office to the Governor of the Presidency; and on acceptance of such resignation by the Governor of the Presidency such office shall become vacant.

Power to fill up vacancy in the number of additional members.

32. On the event of a vacancy occurring by the death, acceptance of office, or resignation accepted in manner aforesaid, of any such additional member of Council, it shall be lawful for the Governor of the Presidency to summon any person as additional member of Council in his place, who shall exercise the same functions until the termination of the term for which the additional member so dying, accepting office, or resigning, was nominated: Provided always, it shall not be lawful for him by such nomination to diminish the proportion of non-official members herein-before directed to be nominated.

No law to be invalid by reason of incompleteness of number of non-official members.

33. No law or regulation made by any such Governor in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby established was not complete at the date of its introduction to the Council or its enactment.

Senior civil ordinary member of Council to preside in absence of Governor of Presidency.

34. At any meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the senior civil ordinary member of Council present shall preside; and the power of making laws and regulations hereby vested in such Governor in Council shall be exercised only at meetings of such Council at which the Governor or some ordinary member of Council, and four or more members of Council (including under the term members of Council such additional members as aforesaid), shall be present; and in any case of difference of opinion at meetings of any such Council for making laws and regulations, where there shall be an equality of voices, the Governor, or in his absence the senior member then presiding, shall have two votes or the casting vote.

Governor General to fix first meeting of Councils of Presidencies for making laws and regulations, &c.

35. The Governor General in Council shall, as soon as conveniently may be, appoint the time for the first meeting of the Councils of Fort Saint George and Bombay respectively, for the purpose of making laws and regulations under this Act; and the Governors of the said Presidencies respectively shall summon to such meeting as well the additional councillors appointed by and under this Act as the ordinary members of the said Councils.

Governors of Presidencies to appoint subsequent meetings, and adjourn them.

36. It shall be lawful for every such Governor to appoint all subsequent times and places of meeting of his Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn or from time to time to authorize such senior ordinary member of Council in his absence to adjourn any meeting for making laws and regulations from time to time and from place to place.

Rules for conduct of business at such meetings.

37. PREVIOUSLY to the first of such meetings of their Councils for the purpose of making laws and regulations under the provisions of this Act, the Governors of the said Presidencies in Council respectively shall make rules for the conduct of business at such meetings, subject to the sanction of the Governor General in Council; but such rules may be subsequently amended at meetings for the purpose of making laws and regulations, subject to the assent of the Governor: Provided always, that it shall be lawful for the Governor General in Council to disallow any such rule, and render the same of no effect.

Business to be transacted at such meetings.

38. No business shall be transacted at any meeting of the Council of either of the said Presidencies for the purpose of making laws and regulations (except as last herein-before provided) other than the consideration and enactment of measures introduced into such Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting the public revenues of the Presidency, or by which any charge shall be imposed on such revenues.

Governors to assent to laws and regulations of Presidencies.

39. WHEN any law or regulation has been made by any such Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such meeting, to declare that he assents to, or withholds his assent from, the same.

Governor General to assent to laws and regulations of Presidencies.

40. THE Governor shall transmit forthwith an authentic copy of every law or regulation to which he shall have so declared his assent to the Governor General; and no such law or regulation shall have validity until the Governor General shall have assented thereto, and such assent shall have been signified by him to and published by the Governor: Provided always, that in every case where the Governor General shall withhold his assent from any such law or regulation, he shall signify to the Governor in writing his reason for so withholding his assent.

Power of the Crown to disallow laws and regulations of Presidencies.

41. WHENEVER any such law or regulation shall have been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such law or regulation; and such disallowance shall make void and annul such law or regulation from or after the day on which such Governor shall make known by proclamation, or by signification to the Council, that he has received the notification of such disallowance by Her Majesty.

Extent of power of Governor of Presidency in Council to make laws and regulations.

42. THE Governor of each of the said Presidencies in Council shall have power, at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for the peace and good government of such Presidency, and for that purpose to repeal and amend any laws and regulations made prior to the coming into operation of this Act by any authority in India, so far as they affect such Presidency: Provided always, that such Governor in Council shall not have the power of making any laws or regulations which shall in any way affect any of the provisions of this Act, or of any other Act of Parliament in force or hereafter to be in force in such Presidency.

Governor of Presidency, except with sanction of Governor General, not to make or take into consideration laws or regulations for certain purposes.

43. IT shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the sanction of the Governor General, previously communicated to him, to make regulations or take into consideration any law or regulation for any of the purposes next herein-after mentioned; that is to say,

1. Affecting the public debt of India, or the customs duties, or any other tax or duty now in force and imposed by the authority of the Government of India for the general purposes of such Government:
2. Regulating any of the current coin, or the issue of any bills, notes, or other paper currency:
3. Regulating the conveyance of letters by the post office or messages by the electric telegraph within the Presidency:
4. Altering in any way the penal code of India, as established by Act of the Governor General in Council, No. 42[a] of 1860:
5. Affecting the religion or religious rites and usages of any class of Her Majesty's subjects in India:
6. Affecting the discipline or maintenance of any part of Her Majesty's Military or Naval Forces:
7. Regulating patents or copyright:
8. Affecting the relations of the Government with foreign princes or states:

Provided always, that no law or provision of any law or regulation which shall have been made by any such Governor in Council, and assented to by the Governor General as aforesaid, shall be deemed invalid only by reason of its relating to any of the purposes comprised in the above list.

Governor General may establish Councils for making laws and regulations in the

44. THE Governor General in Council, so soon as it shall appear to him expedient, shall, by proclamation, extend the provisions of this Act touching the making of laws and regulations for the peace and good government of the Presidencies of Fort Saint George and Bombay to the Bengal division of the

[a] Should be "No. 45."

Presidency of Fort William in Bengal, &c.

Presidency of Fort William, and shall specify in such proclamation the period at which such provisions shall take effect,[a] and the number of councillors whom the Lieutenant Governor of the said division may nominate for his assistance in making laws and regulations; and it shall be further lawful for the Governor General in Council, from time to time and in his discretion, by similar proclamation, to extend the same provisions to the territories known as the North-western Provinces and the Punjab respectively.

Constitution of such Councils.

45. WHENEVER such proclamation as aforesaid shall have been issued regarding the said division or territories respectively, the Lieutenant Governor thereof shall nominate, for his assistance in making laws and regulations, such number of councillors as shall be in such proclamation specified; provided, that not less than one third of such councillors shall in every case be non-official persons, as herein-before described, and that the nomination of such councillors shall be subject to the sanction of the Governor General; and provided further, that at any meeting of any such Council from which the Lieutenant Governor shall be absent, the member highest in official rank among those who may hold office under the Crown shall preside; and the power of making laws and regulations shall be exercised only at meetings at which the Lieutenant Governor, or some member holding office as aforesaid, and not less than one half of the members of Council so summoned as aforesaid, shall be present; and in any case of difference of opinion at any meetings of such Council for making laws and regulations, where there shall be an equality of voices, the Lieutenant Governor, or such member highest in official rank as aforesaid then presiding, shall have two votes or the casting vote.

Power to constitute new provinces, and appoint Lieutenant Governors.

46. IT shall be lawful for the Governor General, by proclamation as aforesaid, to constitute from time to time new provinces for the purposes of this Act, to which the like provisions shall be applicable; and further to appoint from time to time a Lieutenant Governor to any province so constituted as aforesaid, and from time to time to declare and limit the extent of the authority of such Lieutenant Governor, in like manner as is provided by the Act of the seventeenth and eighteenth years of Her Majesty, chapter seventy-seven, respecting the Lieutenant Governors of Bengal and the North-western Provinces.

Power to alter boundaries of presidencies, &c. by proclamation.

47. IT shall be lawful for the Governor General in Council, by such proclamation as aforesaid, to fix the limits of any presidency, division, province, or territory in India for the purposes of this Act, and further by proclamation to divide or alter from time to time the limits of any such presidency, division, province, or territory for the said purposes: Provided always, that any law or

[a] 18th January, 1862, see *Calcutta Gazette*, 1862, pp. 227, 228.

regulation made by the Governor or Lieutenant Governor in Council of any presidency, division, province, or territory shall continue in force in any part thereof which may be severed therefrom by any such proclamation, until superseded by law or regulation of the Governor General in Council, or of the Governor or Lieutenant Governor in Council of the presidency, division, province, or territory, to which such parts may become annexed.

Powers of newly constituted Lieutenant Governors in Council.

48. It shall be lawful for every such Lieutenant Governor in Council thus constituted to make laws for the peace and good government of his respective division, province, or territory; and, except as otherwise herein-before specially provided, all the provisions in this Act contained respecting the nomination of additional members for the purpose of making laws and regulations for the Presidencies of Fort Saint George and Bombay, and limiting the power of the Governors in Council of Fort Saint George and Bombay for the purpose of making laws and regulations, and respecting the conduct of business in the meetings of such Councils for that purpose, and respecting the power of the Governor General to declare or withhold his assent to laws or regulations made by the Governor in Council of Fort Saint George and Bombay, and respecting the power of Her Majesty to disallow the same, shall apply to laws or regulations to be so made by any such Lieutenant Governor in Council.

Previous assent of the Crown necessary to give validity to proclamation.

49. Provided always, that no proclamation to be made by the Governor General in Council under the provisions of this Act for the purpose of constituting any Council for the presidency, division, provinces, or territories herein-before named, or any other provinces, or for altering the boundaries of any presidency, division, province, or territory, or constituting any new province for the purpose of this Act, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

Provision for the supply of the office of Governor General in certain circumstances.

50. If any vacancy shall happen in the office of Governor General of India when no provisional successor shall be in India to supply such vacancy, then and in every such case the Governor of the Presidency of Fort Saint George or the Governor of the Presidency of Bombay who shall have been first appointed to the office of Governor by Her Majesty, shall hold and execute the said office of Governor General of India and Governor of the Presidency of Fort William in Bengal until a successor shall arrive, or until some person in India shall be duly appointed thereto; and every such acting Governor General shall, during the time of his continuing to act as such, have and exercise all the rights and powers of Governor General of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting Governor General foregoing the salary and

allowances appertaining to the office of Governor to which he stands appointed; and such office of Governor shall be supplied for the time during which such Governor shall act as Governor General, in the manner directed in section sixty-three of the Act of the third and fourth years of King William the Fourth, chapter eighty-five.

If it appears to Governor necessary to exercise powers before taking his seat in Council, he may make his appointment, &c. known by proclamation.

51. IF, on such vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said office of Governor General, necessary to exercise the powers thereof before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General; and after such proclamation, and thenceforth until he shall repair to the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council; provided, that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by such Governor who shall have so assumed the said office of Governor General; and from the date of the vacancy occurring, until such Governor shall have assumed the said office of Governor General, the provisions of section sixty-two of the Act of the third and fourth years of King William the Fourth, chapter eighty-five, shall be and the same are declared to be applicable to the case.

Nothing in this Act shall derogate from the powers of the Crown or Secretary of State for India in Council.

52. NOTHING in this Act contained shall be held to derogate from or interfere with (except as herein-before expressly provided) the rights vested in Her Majesty, or the powers of the Secretary of State for India in Council, in relation to the government of Her Majesty's dominions in India, under any law in force at the date of the passing of this Act; and all things which shall be done by Her Majesty, or by the Secretary of State as aforesaid, in relation to such government, shall have the same force and validity as if this Act had not been passed.

Meaning of term "in Council."

53. WHEREVER any act or thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of Fort Saint George and Bombay in Council, it is not required that such act or thing should be done at a meeting for making laws and regulations, unless where expressly provided,

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER LXXIII.

An Act to amend the Law relating to the Copyright of Designs.

[*6th August 1861.*]

WHEREAS by an Act passed in the session holden in the fifth and sixth years of the reign of Her present Majesty, chapter one hundred, intituled "An "Act to consolidate and amend the laws relating to the copyright of designs "for ornamenting articles of manufacture," it was enacted, that the proprietor of every such design as therein mentioned, not previously published either within the United Kingdom of Great Britain and Ireland or elsewhere, should have the sole right to apply the same to any articles of manufacture, or to any such substances as therein mentioned, provided the same were done within the United Kingdom of Great Britain and Ireland, for the respective terms therein mentioned, and should have such copyright in such designs as therein provided: And whereas divers Acts have since been passed extending or amending the said recited Acts: And whereas it is expedient that the provisions of the said recited Act, and of all Acts extending or amending the same, should apply to designs, and to the application of such designs, within the meaning of the said Acts, whether such application be effected within the United Kingdom or elsewhere: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: 5 & 6 Vict. c. 100.

1. THAT the said recited Act, and all Acts extending or amending the same, shall be construed as if the words "provided the same be done within the United Kingdom of Great Britain and Ireland" had not been contained in the said recited Act; and the said recited Act, and all Acts extending or amending the same, shall apply to every such design as therein referred to, whether the application thereof be done within the United Kingdom or elsewhere, and whether the inventor or proprietor of such design be or be not a subject of Her Majesty. 5 & 6 Vict. c. 100., and amending Acts extended.

2. THAT the said several Acts shall not be construed to apply to the subjects of Her Majesty only. Application of Acts.

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER XCVII.

An Act to consolidate and amend the Statute Law of England and Ireland relating to Malicious Injuries to Property. [*6th August 1861.*]

WHEREAS it is expedient to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property: Be it enacted by

the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Setting fire to or casting away or destroying a ship.

42. WHOSOEVER shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

Setting fire to or casting away, &c., a ship, to prejudice the owner or underwriters.

43. WHOSOEVER shall unlawfully and maliciously set fire to, or cast away, or in anywise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.[a]

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Other Matters.

Principals in the second degree and accessories.

56. IN the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall on conviction be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this Act shall be liable to be proceeded against, indicted, and punished as a principal offender.

Abettors in misdemeanors.

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[a] See *Reg.* v. *Elmstone*, 5 Bomb. (Crown Cases) 89, 129.

24 & 25 VICTORIA. A.D. 1861.

CHAPTER CIV.

An Act for establishing High Courts of Judicature in India. [*6th August 1861.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

High Courts may be established in the several Presidencies of India.

1. IT shall be lawful for Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, to erect and establish a High Court of Judicature at Fort William in Bengal for the Bengal division of the Presidency of Fort William aforesaid, and by like Letters Patent to erect and establish like High Courts at Madras and Bombay for those Presidencies respectively, such High Courts to be established in the said several Presidencies at such time or respective times as to Her Majesty may seem fit; and the High Court to be established under any such Letters Patent in any of the said Presidencies shall be deemed to be established from and after the publication of such Letters Patent in the same Presidency, or such other time as in such Letters Patent may be appointed in this behalf.

Constitution of High Courts.

2. THE High Court of Judicature at Fort William in Bengal and at the Presidencies of Madras and Bombay respectively shall consist of a chief justice and as many judges, not exceeding fifteen, as Her Majesty may from time to time think fit and appoint, who shall be selected from—

1st. Barristers of not less than five years standing; or

2nd. Members of the covenanted Civil Service of not less than ten years standing, and who shall have served as zila judges, or shall have exercised the like powers as those of a zila judge, for at least three years of that period; or

3rd. Persons who have held judicial office not inferior to that of principal sadr amín or judge of a small cause court for a period of not less than five years; or

4th. Persons who have been pleaders of a sadr court or High Court for a period of not less than ten years, if such pleaders of a sadr court shall have been admitted as pleaders of a High Court:

Provided, that not less than one third of the judges of such High Courts respectively, including the chief justice, shall be barristers, and not less than one-third shall be members of the covenanted Civil Service.

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Tenure of office of judges, and resignation.

4. ALL the judges of the High Courts established under this Act shall hold their offices during Her Majesty's pleasure: Provided, that it shall be lawful for any judge of a High Court to resign such office of judge to the

Governor General of India in Council, or Governor in Council of the Presidency in which such High Court is established.

Precedence of judges of High Courts.

5. THE chief justice of any such High Court shall have rank and precedence before the other judges of the same court, ... ; and, except as aforesaid, all the judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

Salaries, &c. of judges of High Court.

6. . . . . it shall be lawful for the Secretary of State in Council of India to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the chief justices and judges of the several High Courts under this Act, and from time to time to alter the same: Provided always, that such alteration shall not affect the salary of any judge appointed prior to the date thereof.

Provision for vacancy of the office of chief justice or other judge.

7. UPON the happening of a vacancy in the office of chief justice, and during any absence of a chief justice, the Governor General in Council or Governor in Council, as the case may be, shall appoint one of the judges of the same High Court to perform the duties of chief justice of the said Court until some person has been appointed by Her Majesty to the office of chief justice of the same Court, and has entered on the discharge of the duties of such office, or until the chief justice has returned from such absence; and upon the happening of a vacancy in the office of any other judge of any such High Court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, it shall be lawful for the Governor General in Council or Governor in Council, as the case may be, to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a judge of the said High Court; and the person so appointed shall be authorized to sit and to perform the duties of a judge of the said Court until some person has been appointed by Her Majesty to the office of judge of the same Court, and has entered on the discharge of the duties of such office, or until the absent judge has returned from such absence, or until the Governor General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting judge.

Abolition of Supreme Courts and Sadr Courts.

8. UPON the establishment of such High Court as aforesaid in the Presidency of Fort William in Bengal the Supreme Court and the Court of Sadr Díwání Adálat and Sadr Nizámat Adálat at Calcutta in the same Presidency shall be abolished:

And upon the establishment of such High Court in the Presidency of Madras the Supreme Court and the Court of Sadr Adálat and Faujdárí Adálat in the same Presidency shall be abolished:

And upon the establishment of such High Court in the Presidency of

Bombay the Supreme Court and the Court of Sadr Díwání Adálat and Sadr Faujdárí Adálat in the same Presidency shall be abolished:

And the records and documents of the several courts so abolished in each Presidency shall become and be records and documents of the High Court established in the same Presidency.

Jurisdiction and powers of High Courts.

9. EACH of the High Courts to be established under this Act shall have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the Presidency for which it is established, as Her Majesty may by such Letters Patent as aforesaid grant and direct, subject, however, to such directions and limitations as to the exercise of original civil and criminal jurisdiction beyond the limits of the presidency towns as may be prescribed thereby; and, save as by such Letters Patent may be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council, the High Court to be established in each Presidency shall have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the courts in the same Presidency abolished under this Act at the time of the abolition of such last-mentioned courts.

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Existing provisions applicable to Supreme Courts to apply to High Courts.

11. UPON the establishment of the said High Courts in the said Presidencies respectively all provisions then in force in India of Acts of Parliament, or of any Orders of Her Majesty in Council, or charters, or of any Acts of the Legislature of India, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts[a] at Fort William in Bengal, Madras and Bombay respectively, or to the judges of those Courts, shall be taken to be applicable to the said High Courts, and to the judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof, and subject to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council.

Provision as to pending proceedings in abolished courts.

12. FROM and after the abolition of the courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof; and such proceedings, and all previous proceedings in the said last mentioned Courts, shall be dealt with as if the same had been had in the said High Court, save that any such proceedings may be

[a] See per Peacock, C. J., 2 Beng. Full Bench Rulings 26, 27.

continued, as nearly as circumstances permit, under and according to the practice of the abolished Courts respectively.

Power to High Courts to provide for exercise of jurisdiction by single judges or division courts.

13. SUBJECT to any laws or regulations which may be made by the Governor General in Council, the High Court established in any Presidency under this Act may by its own rules provide for the exercise, by one or more judges, or by division courts constituted by two or more judges of the said High Court, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief justice to determine what judges shall sit alone or in the division courts.

14. THE chief justice of each High Court shall from time to time determine what judge in each case shall sit alone, and what judges of the Court, whether with or without the chief justice, shall constitute the several division courts as aforesaid.

High Courts to superintend and to frame rules of practice for subordinate courts.

15. EACH of the High Courts established under this Act shall have superintendence over all courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, and to direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction, and shall have power to make and issue general rules for regulating the practice and proceedings of such courts, and also to prescribe forms for every proceeding in the said courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said courts, provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction, in the Presidency of Fort William of the Governor General in Council, and in Madras or Bombay of the Governor in Council of the respective Presidencies.

Her Majesty may establish a High Court in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court.

16. IT shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the Great Seal of the United Kingdom to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in India not included within the limits of the local jurisdiction of another High Court, to consist of a chief justice, and of such number of other judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies herein-before mentioned, as Her Majesty from time to time may think fit and appoint; and it shall be lawful for Her Majesty by such Letters Patent to confer on such court any such jurisdiction, powers, and authority as

under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency herein-before mentioned; and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the chief justice and other judges of such court, and to the Governor General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said territories, and to the chief justice and other judges thereof, and to the person administering the government of the said territories.

Other or supplemental charters may be granted within three years after the establishment of any High Court.

17. It shall be lawful for Her Majesty, if Her Majesty shall so think fit, at any time within three years[a] after the establishment of any High Court under this Act, by her Letters Patent to revoke all or such parts or provisions as Her Majesty may think fit of the Letters Patent by which such Court was established, and to grant and make such other powers and provisions as Her Majesty may think fit, and as might have been granted or made by such first Letters Patent, or, without any such revocation as aforesaid, by like Letters Patent to grant and make any additional or supplementary powers and provisions which might have been granted or made in the first instance.

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Interpretation of terms.

19. The word "barrister" in this Act shall be deemed to include barristers of England or Ireland, or members of the Faculty of Advocates in Scotland; and the words "Governor General and Governor" shall comprehend the officer administering the government.

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24 & 25 VICTORIA. A. D. 1861.

Chapter CXIV.

An Act to amend the Law with respect to Wills of Personal Estate made by British Subjects. [*6th August 1861.*]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Wills of personalty made by British subjects out of the United Kingdom to be admitted,

1. Every will and other testamentary instrument made out of the United Kingdom by a British subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as

[a] Extended to 1st January, 1866, by 28 Vic., c. 15, s. 1.

if made according to the forms required by the law of the place where made, orthe law of the domicile, or domicile of origin.

regards personal estate be held to be well executed for the purpose of being admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be made according to the forms required either by the law of the place where the same was made, or by the law of the place where such person was domiciled when the same was made, or by the laws then in force in that part of Her Majesty's dominions where he had his domicile of origin.

Wills of personalty made in the United Kingdom to be admitted, if made according to the forms required by the law of the place where made.

2. EVERY will and other testamentary instrument made within the United Kingdom by any British subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be executed according to the forms required by the laws for the time being in force in that part of the United Kingdom where the same is made.

Change of domicile not to invalidate will.

3. NO will or other testamentary instrument shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicile of the person making the same.

Nothing in this Act to invalidate wills of personalty otherwise valid.

4. NOTHING in this Act contained shall invalidate any will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed, except as such will or other testamentary instrument may be revoked or altered by any subsequent will or testamentary instrument made valid by this Act.

Application of Act.

5. THIS Act shall extend only to wills and other testamentary instruments made by persons who die after the passing of this Act.

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER CXVIII.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*6th August 1861.*]

WHEREAS the exigencies of the public service in India require that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Secretary of

1. IT shall be lawful for the Secretary of State in Council of India, at any

time or times before the thirtieth day of April one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.[a]

State in Council of India may raise any sum not exceeding five millions.

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24 & 25 VICTORIA. A. D. 1861.

CHAPTER CXXI.

An Act to amend the Law in relation to the Wills and Domicile of British Subjects dying whilst resident abroad, and of Foreign Subjects dying whilst resident within Her Majesty's Dominions. [*6th August 1861.*]

WHEREAS by reason of the present law of domicile the wills of British subjects dying whilst resident abroad are often defeated, and their personal property administered in a manner contrary to their expectations and belief; and it is desirable to amend such law; but the same cannot be effectually done without the consent and concurrence of foreign states: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by authority of the same, as follows:

On the conclusion of a convention with any foreign state, Her Majesty may by Order in Council direct that no British subject dying in such country shall be deemed to have acquired a domicile unless he shall have resided there for one year immediately preceding his death, and shall have declared his intention to become domiciled; but subjects so dying shall

1. WHENEVER Her Majesty shall by convention with any foreign state agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of Her Majesty and of such foreign state respectively, it shall be lawful for Her Majesty by any Order in Council to direct, and it is hereby enacted, that from and after the publication of such Order in the London Gazette no British subject resident at the time of his or her death in the foreign country named in such Order shall be deemed under any circumstances to have acquired a domicile in such country unless such British subject shall have been resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in the Order in Council) a declaration in writing of his or her intention to become domiciled

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[a] The remainder of this Act is omitted.

for all purposes of testate or intestate succession retain the domicile possessed at the time of going to reside in such foreign country.

in such foreign country; and every British subject dying resident in such foreign country, but without having so resided and made such declaration as aforesaid, shall be deemed for all purposes of testate or intestate succession as to moveables to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

Corresponding provisions as to subjects of such foreign state dying in Great Britain or Ireland.

2. AFTER any such convention as aforesaid shall have been entered into by Her Majesty with any foreign state it shall be lawful for Her Majesty by Order in Council to direct, and from and after the publication of such Order in the London Gazette it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of Great Britain or Ireland shall be deemed under any circumstances to have acquired a domicile therein, unless such foreign subject shall have been resident within Great Britain or Ireland for one year immediately preceding his or her decease, and shall also have signed, and deposited with Her Majesty's Secretary of State for the Home Department, a declaration in writing of his or her desire to become and be domiciled in England, Scotland, or Ireland, and that the law of the place of such domicile shall regulate his or her moveable succession.

Exemption of foreigners naturalized.

3. THIS Act shall not apply to any foreigners who may have obtained letters of naturalization in any part of Her Majesty's dominions.

On the conclusion of a convention with any foreign state, Her Majesty may by Order in Council direct that when subjects of such foreign state die in Her Majesty's dominions, and there shall be no persons to administer to their estates, the consul, &c. of such foreign state may administer.

4. WHENEVER a convention shall be made between Her Majesty and any foreign state, whereby Her Majesty's consuls or vice-consuls in such foreign state shall receive the same or the like powers and authorities as are hereinafter expressed, it shall be lawful for Her Majesty by Order in Council to direct, and from and after the publication of such Order in the London Gazette it shall be and is hereby enacted, that whenever any subject of such foreign state shall die within the dominions of Her Majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign state within that part of Her Majesty's dominions where such foreign subject shall die to take possession and have the custody of the personal property of the deceased, and to apply the same in payment of his or her debts and funeral expenses, and to retain the surplus for the benefit of the persons entitled thereto; but such consul, vice-consul, or consular agent shall immediately apply for and shall be entitled to obtain from the proper court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such court shall seem fit.

25 & 26 VICTORIA. A. D. 1862.

CHAPTER VII.

An Act to provide for the Registration and Transfer of India Stocks at the Bank of Ireland, and for the mutual Transfer of such Stocks from and to the Banks of England and Ireland respectively. [*11th April 1862.*]

WHEREAS by an Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and two, the Secretary of State in Council of India was authorized from time to time to make such arrangements with the Governor and Company of the Bank of England, as should be deemed expedient, for the payment of debts and obligations of the Government of India, and of the interest thereon, and for the creation and registration and for the transfer of and the payment of interest on any stock into which any such obligations might be convertible: And whereas certain arrangements have been made under the authority of the said Act; and in pursuance of such arrangements the stocks in certain loans secured by and chargeable on the revenues of India, and the transfers thereof, are registered at the Bank of England, and the dividends thereon are paid at such Bank: And whereas it is expedient that provision should be made so as to enable the transfer of stock raised in the United Kingdom on the credit of the revenues of India to the Bank of Ireland, and for the registration and transfer of and the payment of dividends on such stock so transferred at such last-mentioned Bank: And whereas it is expedient to make provision for the mutual transfer of such stock from and to the Bank of England and the Bank of Ireland respectively: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: 23 & 24 Vict. c. 102.

1. IN this Act the expression "India stock" means stock created or to be created for the raising of money in the United Kingdom on the credit of the revenues of India, but does not include the stock commonly known by the name of East India Stock. Interpretation of expression "India stock."

2. FROM and after the passing of this Act it shall and may be lawful for any person or persons holding any India stock transferable at the Bank of England, upon making application in the manner hereinafter provided, to transfer or cause to be transferred such stock, for the purpose of having the same amount of stock of the same denomination written into the books of the Governor and Company of the Bank of Ireland, and to be transferable at such Bank; and the dividends on the stock so transferred shall be payable half-yearly at the Bank of Ireland on the same days on which such dividends would Power to transfer India stock from the books of the Bank of England to the books of the Bank of Ireland.

have been payable at the Bank of England if the said stock had never been so transferred.

Assignments or transfers of stock so transferred to be made at the Bank of Ireland, &c.

3. THE several stocks so transferred, or any share or interest therein, and the proportional dividend attached thereto respectively, shall be assignable and transferable at the Bank of Ireland, as directed by this Act, and not otherwise; and there shall be kept at the Bank of Ireland within the City of Dublin a book or books wherein all assignments or transfers of any part of the several stocks and the proportional dividends attached thereto respectively shall be entered and registered; which entries shall be conceived in proper words for that purpose, and shall be signed by the parties making such assignments or transfers, or, if any such party or parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom any such assignment or transfer shall be made, or, in case of absence, his, her, or their attorney or attornies thereunto lawfully authorized as aforesaid, shall respectively underwrite his, her, or their acceptance thereof; and no other method of assigning or transferring any such stock and the dividend attached thereto, or any interest therein, at the Bank of Ireland, shall be good and available in law; and no stamp duties whatsoever shall be charged upon the said assignments or transfers or any of them.

Power to transfer India stock from the books of the Bank of Ireland to the books of the Bank of England.

4. IT shall and may be lawful for any person or persons holding any India stock transferable at the Bank of Ireland, upon making application in the manner herein-after provided, to transfer or cause to be transferred such stock, for the purpose of having the same amount of stock of the same denomination written into the books of the Governor and Company of the Bank of England, and to be transferable at such Bank.

No transfer shall be made within a certain period before the closing day.

5. NOTWITHSTANDING anything herein-before contained to the contrary, it shall not be lawful for any person to make any transfer of any stock from the Bank of England to the Bank of Ireland, or from the Bank of Ireland to the Bank of England, under the provisions of this Act, at any time within three clear days before the day on which the books shall be closed for the purpose of striking the balances of the several accounts for the purpose of calculating the half-yearly dividend, or within such other period as the Governor and Company of the Bank of England, in concurrence with the Governor and Company of the Bank of Ireland, may from time to time prescribe.

Application to be made to the Banks of England and Ireland for permission to transfer from the one to the

6. ANY person or persons holding India stock transferable at the Bank of England or at the Bank of Ireland respectively, and desiring to transfer the same so as to make such stock transferable at the Bank of Ireland or at the Bank of England respectively, shall apply in writing, or cause application in writing to be made by some person on his, her, or their behalf, to the Governor

and Company of the Bank of England or Bank of Ireland respectively at which such stock shall be transferable, for permission to transfer or cause to be transferred such stock for the purpose of having the same amount of stock of the same denomination written into the books of the Governor and Company of the Bank of Ireland or into the books of the Governor and Company of the Bank of England respectively, as the case may require; and such application shall be according to such form as shall be established by the Governor and Company of the Bank of England in concurrence with the Governor and Company of the Bank of Ireland, and shall be the same in all cases; and upon such application having been made, and upon such person or persons transferring the stock or causing the same to be transferred into the name of the Accountant General of the Bank of England or Bank of Ireland respectively, at which it shall be desired that such stock shall be transferred, it shall and may be lawful for the Governor or Deputy Governor of the Bank of England or for the Governor or Deputy Governor of the Bank of Ireland, as the case may require, or for the Accountant General or Deputy Accountant General of such Governor and Company, or for the secretary or assistant secretary of such Governor and Company for the time being, and they are hereby respectively authorized and required, to grant a certificate to the person or persons making such transfer, or on whose behalf such transfer shall have been made, directed to the Governor and Company of the Bank of Ireland or the Governor and Company of the Bank of England to which it shall be desired that such stock shall be transferred; and such certificate shall be according to such form as shall be established by the Governor and Company of the Bank of England, in concurrence with the Governor and Company of the Bank of Ireland, and shall be the same in all cases; and such certificate shall state that the person or persons therein mentioned has or have transferred or caused to be transferred at the Bank of England or the Bank of Ireland, as the case may be, the stock therein described, to the Accountant General of the Bank of England or the Bank of Ireland, as the case may be, for the purpose of having the amount of such stock written in the name or names of such person or persons into the books of the Governor and Company of the Bank of Ireland or of the Governor and Company of the Bank of England, as the case may be, and shall describe such stock, and specify the amount thereof; and thereupon the amount of the stock comprised in such certificate shall be written off the account of the Accountant General of the Bank of England, or the account of the Accountant General of the Bank of Ireland, by an entry made in conformity with such certificate.

other, and upon such transfers being made certificates to be granted, &c.

7. In every case where any transfer for the purposes of this Act shall be made at the Bank of England, the Governor and Company of the said Bank

Notices of transfers to be sent to the

Bank into which the stock is to be transferred.

shall cause notice thereof to be transmitted to the Governor and Company of the Bank of Ireland on the same day on which such transfer shall be made; and in like manner in every case where any transfer for the purposes of this Act shall be made at the Bank of Ireland, the Governor and Company of the Bank of Ireland shall cause notice thereof to be transmitted to the Governor and Company of the Bank of England on the same day on which such transfer shall be made.

Books to be provided for entering transfers under this Act at the Banks of England and Ireland respectively.

8. A BOOK or books shall be provided and kept by the Governor and Company of the Bank of England and the Governor and Company of the Bank of Ireland at the Bank of England and Bank of Ireland respectively, in which shall be fairly entered the names of all persons making any transfer of any stocks to the Accountant General of the said Banks respectively, under the provisions of this Act; to which book or books it shall and may be lawful for all persons making any such transfer, their respective executors, administrators, and assigns, from time to time and at all reasonable times to resort, and to inspect the same, without any fee or charge.

On production of certificate from the Bank where the transfer is made, the Bank to which the transfer is made shall write the amount of stock into their books.

9. WHENEVER any transfer shall be made of any stock for the purposes of this Act at the Bank of England or at the Bank of Ireland respectively, then and in every such case, upon the production of a certificate of the Governor or Deputy Governor of the Bank of England or of the Governor and Company of the Bank of Ireland at which any such transfer shall have been made, or of the Accountant General or Deputy Accountant General or of the secretary or assistant secretary of such Governor and Company respectively, granted according to the directions of this Act, the Governor and Company of the Bank of Ireland or the Governor and Company of the Bank of England respectively are hereby authorized and required to write or cause to be written into the books of such Bank of Ireland or Bank of England respectively, as the case may require, relating to stock of the same denomination, the amount of stock specified in such certificate; and such amount of stock shall be written accordingly, transferable under the provisions of this Act at the Bank of Ireland or Bank of England respectively, as the case shall require, and shall be payable and transferable at such Bank of England or Bank of Ireland respectively; and every such amount of stock so written into the books of the Bank of Ireland or of the Bank of England respectively shall be entitled to interest or dividend payable at the Bank to which such transfer shall have been made, except as to stock which shall have been transferred after the closing and before the dividend shall become payable, in which case the party making the transfer shall receive the current dividend at the Bank from which such transfer shall have been made.

Banks of

10. THE Governor and Company of the Bank of England and the Governor

and Company of the Bank of Ireland, upon making up their books preparatory to the payment of each and every half-yearly interest or dividend upon any stocks transferable under this Act, shall certify to the Secretary of State in Council of India, or to such officer or officers as the Secretary of State in Council of India shall direct, the amounts of such stocks which shall then be written in the Books of the Governor and Company of the Bank of England or of the Governor and Company of the Bank of Ireland, and shall be transferable at such Banks respectively under the provisions of this Act; and upon the receipt of such certificates the Secretary of State in Council of India is hereby authorized and required to pay to the Governor and Company of the Bank of England, and to the Governor and Company of the Bank of Ireland, or into the Bank of England to the account of the Governor and Company of the Bank of Ireland, respectively, the amount of all interest or dividends then being or becoming payable upon such amounts of stocks as are specified in such certificates respectively.

England and Ireland to certify to the Secretary of State in Council of India the amount of stock written in their books prior to dividend, and the dividend to be paid to them by such Secretary of State.

11. In addition to the amount of interest or dividend which shall from time to time be paid to the Governor and Company of the Bank of Ireland under the last provision, the Secretary of State in Council of India shall at the same time pay to the Governor and Company of the Bank of Ireland, or to the account of such Governor and Company at the Bank of England, as a remuneration for their services in the execution of this Act, such sum as shall from time to time be fixed as the amount of such remuneration under any arrangement or agreement to be made between the Secretary of State in Council of India and the Governor and Company of the Bank of Ireland.

Remuneration for services under this Act to be paid to the Bank of Ireland.

12. In case of the loss or destruction of any certificate of the Governor or Deputy Governor, Accountant General, or Deputy Accountant General, secretary or assistant secretary of the Bank of England or of the Bank of Ireland respectively, granted for the purposes of this Act, it shall and may be lawful for any such Governor or Deputy Governor, Accountant General or Deputy Accountant General, secretary or assistant secretary, and they are hereby respectively authorized and empowered, upon proof of such loss or destruction to their satisfaction, to grant a duplicate of such certificate; and such duplicate shall be full and sufficient authority for the purposes of this Act, and shall stand in the place and stead of the original certificate, if such original certificate shall not have been previously found and acted upon: Provided always, that upon any loss or destruction or alleged loss or destruction of any such original certificate, and on the production of any such duplicate certificate, it shall and may be lawful for the Governor and Company of the Bank of England or the Governor and Company of the Bank of Ireland respectively, and they are hereby authorized and required, to demand and

Duplicates may be granted of certificates lost or destroyed.

take from the party or parties tendering any such duplicate full and sufficient security to Her Majesty, her heirs and successors, to indemnify such Governor and Company against the production of or any claim which shall be made under or by virtue of any such original certificate so lost or destroyed, or alleged to have been lost or destroyed; and if at any time after the time when a duplicate certificate shall have been produced and acted upon under this Act the original of such certificate shall be tendered to the Governor and Company of the Bank of England or the Governor and Company of the Bank of Ireland, it shall and may be lawful for such Governor and Company, and they are hereby authorized and required, to detain such original certificate, and to cancel the same, and to transmit the same so cancelled to the Governor and Company of the Bank of England or the Governor and Company of the Bank of Ireland, as the case may be, by or on whose behalf such certificate shall have been given, and to deliver up such security as shall have been entered into touching the said original certificate to the party or parties entering into such security, or such of them as shall require the same.

Power to Bank of Ireland to close books for transfer.

13. THE Governor and Company of the Bank of Ireland shall be at liberty to close their books for transfer of India stock on any day in the month prior to the days for payment of the half-yearly dividends on such stock, such day to be fixed or agreed on between the Bank of England and the Bank of Ireland; provided, however, that the period for which the same shall be closed shall not exceed fifteen days; and the person or persons who on the day of such closing shall appear in the said books to be the proprietor or proprietors thereof shall be entitled to the current dividend thereon.

Persons forging, &c. certificates, guilty of felony.

14. IF any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any certificate or duplicate certificate required by this Act, or shall alter any number, figure, or word therein, or shall utter or publish as true any such false, forged, counterfeited, or altered certificate, with intent to defraud the Governor and Company of the Bank of England or the Governor and Company of the Bank of Ireland, or any body politic or corporate, or any person or persons whomsoever, every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting, or altering, uttering, or publishing as aforesaid, being convicted thereof in due form of law, shall be adjudged guilty of felony.

No fee, &c. to be taken for receiving certificates, or paying dividends, &c., on

15. No fee, reward, or gratuity whatsoever shall be demanded or taken of any of Her Majesty's subjects for receiving any such certificate or duplicate certificate, or for paying interest or dividend, or for any transfer of any sum to be made in pursuance of this Act, upon pain that any officer or person

offending by taking or demanding any such fee or reward or gratuity shall for every such offence forfeit the sum of twenty pounds to the party aggrieved, with full costs of suit, to be recovered by action of debt, bill, plaint, or information in any of Her Majesty's Courts of Record at Westminister or Dublin respectively.

penalty of 20*l.* with costs of suit.

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25 & 26 VICTORIA. A. D. 1862.

CHAPTER XX.

An Act respecting the Issue of Writs of Habeas Corpus out of England into Her Majesty's Possessions Abroad. [*16th May 1862.*]

WHEREAS it is expedient that writs of habeas corpus should not issue out of England into any colony or foreign dominion of the Crown where Her Majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ, and to ensure the due execution thereof throughout such colony or foreign dominion: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. No writ of habeas corpus shall issue out of England, by authority of any judge or court of justice therein, into any colony or foreign dominion of the Crown where Her Majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ, and to ensure the due execution thereof throughout such colony or dominion.

Writ not to issue out of England into any colony, &c. having a court with authority to grant such writ.

2. PROVIDED, that nothing in this Act contained shall affect or interfere with any right of appeal to Her Majesty in Council now by law existing.

Saving of right of appeal to Her Majesty in Council.

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25 & 26 VICTORIA. A. D. 1862.

CHAPTER XXVII.

An Act to authorize Payments for a further Period out of the Revenues of India in respect of the Retiring Pay, Pensions, and other Expenses of that Nature of Her Majesty's British Forces serving in India.[a]

[*30th June 1862.*]

WHEREAS by an Act passed in the session holden in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter eighty-nine,

[a] Repealed by 38 & 39 Vic., c. 66.

24 & 25 Vict. c. 89.

intituled "An Act to increase the amount payable out of the revenues of India in respect of the retiring pay, pensions, and other expenses of that nature of Her Majesty's British forces serving in India," after reciting that the sum of sixty thousand pounds therein mentioned to have been hitherto paid annually into the receipt of Her Majesty's exchequer out of the territorial revenues of the East Indies, in order to provide for the charge incurred for retiring pay and pensions and other expenses of that nature was insufficient, and that it was expedient that it should be increased, it was enacted, that from the thirty-first day of March one thousand eight hundred and sixty-one until the thirty-first day of March one thousand eight hundred and sixty-two there should be paid out of the revenues of India to the account of Her Majesty's exchequer such sum as therein mentioned, being the same as is herein required to be paid for a further limited period: And whereas it is expedient that the payment so made should be continued as herein-after mentioned: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Future charge on revenues of India.

1. FROM the thirty-first day of March one thousand eight hundred and sixty-two until the thirty-first day of March one thousand eight hundred and sixty-seven there shall be paid annually out of the revenues of India, to the account of Her Majesty's Exchequer at the Bank of England, in respect of the above-mentioned charge, a sum calculated at the rate of three pounds ten shillings per head per annum upon the number of Her Majesty's British forces chargeable upon the said revenues of India, exclusive of the number at the depôts or on passage, as shown by the monthly muster rolls, the payment to be made monthly, and to be calculated upon the number shown in the last monthly muster rolls received in England before each month for which payment is to be made.

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25 & 26 VICTORIA. A. D. 1862.

CHAPTER XXXIX.

An Act for enabling the Commissioners of Her Majesty's Treasury to make Arrangements with the Red Sea and India Telegraph Company.

[*17th July 1862.*]

WHEREAS in the year one thousand eight hundred and fifty-eight a joint stock company was incorporated under the "Joint Stock Companies Act," 1856, by the name of "The Red Sea and India Telegraph Company, Limited," for the purpose of establishing telegraphic communication between India

and England by the Red Sea: And whereas by an agreement dated the eighteenth day of November one thousand eight hundred and fifty-eight, and made between two of the commissioners of Her Majesty's treasury of the one part, and the said Company of the other part, it was amongst other things provided, that the lords commissioners of Her Majesty's Treasury should guarantee to the Company (subject to such confirmation by Act of Parliament as therein-after mentioned) that during the period of fifty years from the fourth day of August one thousand eight hundred and fifty-eight, the net receipts available for dividend upon each half-yearly statement of accounts, after payment of working expenses as therein-after mentioned, should be equal to interest or dividend at the rate of four and a half per cent. per annum at the least upon the amount of the capital for the time being bonâ fide called and paid up for the purpose of the Company's undertakings, not exceeding in any case, except as therein-after mentioned, the sum of eight hundred thousand pounds, and should, if and so often as during the said period of fifty years, upon any half-yearly statement of accounts, the net receipts available for dividend, after the payment of working expenses, should not be equal to interest or dividend at the rate of two and a quarter per cent. for the half year upon the above-mentioned amount of capital, pay and make good such deficiency to the Company: Provided always, that in the calculation of the amount to which the Company were entitled upon that guarantee, all capital paid up in the course of the current half year should be taken to be entitled to interest or dividend at the above-mentioned rate only from the time when the same was so paid up: Provided also, that all amounts paid by the lords commissioners under the guarantee should be a charge on the Company, to be repaid out of the future surplus profits as therein-after provided: And whereas the said Company was afterwards incorporated, and the said agreement confirmed by the "Red Sea and India Telegraph Act, 1859," and by a further Act, intituled "An Act for amending the Red Sea and India Telegraph Act, 1859," and passed in the year one thousand eight hundred and sixty-one, after reciting that doubts were entertained whether the said agreement empowered the said Commissioners to give effect to such guarantee, except during such time as the line of telegraph of the Company was in working order, and that it was expedient that such doubts should be removed, it was declared that the guarantee contained in the said agreement was not intended to be and was not conditional on the line of telegraph of the Company being in working order: And whereas the line of telegraph laid down by the said Company, herein-after referred to as the Old Company, has ceased to transmit messages: And whereas an arrangement of which an abstract is contained in the schedule to this Act annexed has been entered into between the said commissioners, the Old

Company and a new Company incorporated under the name of "The Telegraph to India Company, Limited," herein referred to as the New Company, whereby it is agreed that on the New Company complying with certain conditions required by the said commissioners (and which conditions have since been complied with), and in consideration of the New Company discharging all the debts and liabilities of the Old Company, the cables, lines, stations, concessions, and all other the real and personal property of the Old Company, including things in action, should be transferred to the New Company, and that in consideration of such transfer the Old Company should in exchange for the guarantee given by the said agreement receive such compensation by way of annuities, but subject to such powers of redemption, as is herein mentioned: And whereas the foregoing arrangement cannot be carried into effect without the authority of Parliament: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Transfer of property from Old Company to new.

1. FROM and after the passing of this Act, the cables, lines, stations, concessions, and all other the real and personal property of the Old Company, including things in action, shall vest in the New Company for all the estate and interest of the Old Company therein, and the said agreement of the eighteenth day of November one thousand eight hundred and fifty-eight, and all the covenants and conditions therein contained, shall be deemed to be at an end, but the New Company shall be bound to fulfil the agreement contained in the schedule to this Act.

List of shareholders to be made.

2. THE books of transfer of shares in the said Old Company shall be closed immediately on the passing of this Act, and within one month from the date of the passing of this Act a list of the several persons then holding shares or stock in the capital of the said Company at the date of such closing, duly authenticated under the corporate seal and by the signature of the secretary of the said Company, shall be delivered to the Governor and Company of the Bank of England, and such list shall set forth the names, descriptions and addresses of all such persons, and the amount of the share or shares held by each respectively, and the amount which will be payable to each in respect of such shares out of the annuity of thirty-six thousand pounds herein-after referred to; and such list so authenticated shall for the purposes of this Act be binding on all persons whatsoever.

Charge upon consolidated fund of terminable annuities.

3. THE Governor and Company of the Bank of England, as soon as possible after such list shall have been delivered to them, shall certify to the commissioners of Her Majesty's Treasury that such list has been so delivered to them, and the said Commissioners are hereby authorized to charge

and shall thereupon charge, under the authority of this Act, upon the consolidated fund of the United Kingdom, an annuity of thirty-six thousand pounds for forty-six years ending on the fourth day of August one thousand nine hundred and eight, payable in equal moieties half-yearly, the first half-yearly payment to become due on the fourth day of August one thousand eight hundred and sixty-two, and the last half-yearly payment on the fourth day of August one thousand nine hundred and eight; and such half-yearly payments shall be made to the said Governor and Company for and on account of the several persons in the said lists mentioned in the several and respective accounts therein set forth.

Rights of shareholders to terminable annuities.

4. THE proportionate parts of the said annuity as certified in such list as being due to the several persons therein named shall be inscribed in the names of the several parties in books to be provided for the purpose by the said Governor and Company, and all payments becoming due from time to time thereon shall be payable at the Bank of England to the several persons to whom such payment shall from time time be due, half-yearly, in equal moieties on the fourth day of August and fourth day of February, and the said proportionate parts shall be transferable in the books of the said Governor and Company in like manner as all other annuities of like kind chargeable on the consolidated fund of the United Kingdom, and payable by the said Governor and Company, and shall not be liable to stamp duty.

Delivery of transfer books to Bank of England.

5. IMMEDIATELY after the inscription of the said annuity in the books of the said Governor and Company as aforesaid, the books of transfer, and other books of the Red Sea and India Telegraph Company relating to the shares therein, shall be delivered by the said Company into the custody of the said Governor and Company of the Bank of England, to be retained by them.

Redemption of annuity.

6. THE Commissioners of the Treasury may at any time redeem the annuity hereby granted on payment of a capital sum which will be sufficient to purchase a Government annuity at the rate of four pounds ten shillings per annum on each one hundred pounds of the stock or capital of the said Old Company for the unexpired residue of the term.

Contribution of revenues of India.

7. THERE shall be paid out of the revenues of India to the account of Her Majesty's Exchequer at the Bank of England in respect of the charge hereby created, by two half-yearly payments on the fourth day of August and fourth day of February in each year respectively, the annual sum of eighteen thousand and twenty-seven pounds, being one half of the amount of the before-mentioned annuity, and of the cost of management, the first of such half-yearly payments to be made on the fourth day of August one thousand eight hundred and sixty-two, and the last on the fourth day of August one thousand nine hundred and eight.

SCHEDULE.

HEADS OF ARRANGEMENT REFERRED TO IN PREAMBLE OF ACT.

1. THAT the Old Company be divested of all further responsibilty in respect to the affairs of the Red Sea and India Telegraph, with a view to transferring the entire concern to the hands of a new Company, on suitable terms and conditions.

2. THAT the present guarantee of 4½ per cent. on the paid-up capital of the Old Company be converted into a Government annuity of like amount, payable at the Bank of England, as in the case of other annuities of like kind.

3. THE commissioners of the Treasury shall have power to redeem the said annuity at any time, on payment to the said Company of a capital sum which will be sufficient to purchase a Government annuity at the rate of 4*l.* 10*s.* per annum on each hundred pounds of the stock or capital of the Company for the unexpired residue of the term of their original contract.

As regards the New Company.

1. THAT the cables, land lines, instruments, stations, concessions, &c. belonging to the Old Company shall be made over to the New Company free from charge, the New Company discharging all outstanding debts and liabilities of the Old Company.

2. THAT that the New Company shall use their best endeavours to repair and restore the whole line from Suez to Kurrachee, and to work it when completed, but shall not have possession until two-thirds of the capital is subscribed, and one-third paid up, and a suitable vessel despatched with not less than 200 miles of new cable on board.

3. THAT that the capital of the New Company shall not be less in the first instance than 100,000*l.* with power to increase to 250,000*l.*, if required to complete the restoration of the line.

4. THAT the New Company shall be entitled to a clear dividend out of the profits of 25 per cent. on the money paid up by them.

5. THAT any surplus profits shall be applied to reimburse the commissioners of the Treasury for the payments they have made or will have to make annually by way of interest or annuity upon the capital expended by the Old Company, after which any further profits which may accrue shall be applied to the creation of a reserve fund.

6. AFTER the restoration of the line any outlay of capital shall be subject to the approval of the commissioners of the Treasury, and the commissioners of the Treasury shall have power to disallow working expenditure as excessive or unreasonable.

7. In the event of the failure of the company to restore the line or maintain it in working order, the Commissioners of the Treasury shall have power to take it into their own hands again, on repaying the capital actually expended by the New Company.

Should the Commissioners not exercise this right, the Company shall be at liberty to dispose of the property to reimburse their outlay; the balance, after defraying the actual expenditure, to be the property of the commissioners of the Treasury.

8. At the expiration of 30 years, the commissioners of the Treasury shall have the right of re-purchasing the line and property on the terms of repayment of the capital expended by the Company.

9. The failure in clause seven shall be defined to be the non-working of the line from end to end, subject to a just allowance of time for restoration.

10. The accounts shall be audited at the Treasury half-yearly.

11. All differences between the commissioners of the Treasury and the Company shall be decided by arbitration.

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25 & 26 VICTORIA. A. D. 1862.

Chapter LXIII.

An Act to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853." [*29th July 1862.*]

Whereas it is expedient further to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853": Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: 17 & 18 Vict. c. 104. 18 & 19 Vict. c. 91. 16 & 17 Vict. c. 107.

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1862," and shall be construed with and as part of "The Merchant Shipping Act, 1854," herein-after termed the principal Act. Short title.

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Registry and Measurement of Tonnage (Part II. of Merchant Shipping Act, 1854).

3. It is hereby declared that the expression "beneficial interest," whenever used in the second part of the principal Act, includes interests arising Equities not excluded by Merchant Shipping Act.

under contract and other equitable interests; and the intention of the said Act is that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and mortgagees, and without prejudice to the provisions contained in the said Act relating to the exclusion of unqualified persons from the ownership of British ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property.

Tonnage rates under Local Acts may be levied on the registered tonnage.

4. ANY body corporate or persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the Board of Trade, levy such tonnage rates upon the registered tonnage of the ships as determined by the rules for the measurement of tonnage for the time being in force under the principal Act, notwithstanding that the Local Act or Acts under which such rates are levied provides for levying the same upon some different system of tonnage measurement.

Certificates for Engineers (Part III. of Merchant Shipping Act, 1854.)

Steam ships to carry certificated engineers.

5. ON and after the first day of June one thousand eight hundred and sixty-three, every steam ship which is required by the principal Act to have a master possessing a certificate from the Board of Trade shall also have an engineer or engineers possessing a certificate or certificates from the Board of Trade as follows; that is to say,

(1) Engineers certificates shall be of two grades, viz., "first-class engineers certificates," and "second-class engineers certificates";

(2) Every foreign-going steam ship of one hundred nominal horse power or upwards shall have as its first and second engineers two certificated engineers, the first possessing a "first-class engineers certificate," and the second possessing a "second-class engineers certificate" or a certificate of the higher grade:

(3) Every foreign-going steam ship of less than one hundred nominal horse power shall have as its only or first engineer an engineer possessing a "second-class engineers certificate" or a certificate of the higher grade:

(4) Every sea-going home trade passenger steam ship shall have as its only or first engineer an engineer possessing a "second-class engineers certificate" or a certificate of the higher grade:

(5) Every person who, having been engaged to serve in any of the above capacities in any such steam ship as aforesaid, goes to sea in that capacity without being at the time entitled to and possessed of such certificate as is required by this section, and every person who employs any person in any of the above capacities in such ship without ascertaining that he is at the time entitled to and possessed of such certificate as is required by this section, shall for each such offence incur a penalty not exceeding fifty pounds.

Examinations for engineers certificates of competency.

6. THE Board of Trade shall from time to time cause examinations to be held of persons who may be desirous of obtaining certificates of competency as engineers: For the purpose of such examinations the Board of Trade shall from time to time appoint and remove examiners, and award the remuneration to be paid to them; lay down rules as to the qualification of applicants, and as to the times and places of examination; and generally do all such acts as it thinks expedient in order to carry into effect the examination of such engineers as aforesaid.

Fees to be paid by applicants for examination.

7. ALL applicants for examination shall pay such fees, not exceeding the sums specified in the table marked (B.) in the schedule hereto, as the Board of Trade directs; and such fees shall be paid to such persons as the said Board appoints for that purpose, and shall be carried to the account of the Mercantile Marine Fund.

Certificates of competency to be granted to those who pass.

8. THE Board of Trade shall deliver to every applicant who is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency, as first-class engineer or as second-class engineer, as the case may be.

Engineers certificates of service to be delivered on proof of certain service.

9. CERTIFICATES of service for engineers, differing in form from certificates of competency, shall be granted as follows; that is to say,

(1) Every person who before the first day of April one thousand eight hundred and sixty-two has served as first engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or who has attained or attains the rank of engineer in the service of Her Majesty or of the East India Company, shall be entitled to a "first-class engineers certificate" of service:

(2) Every person who before the first day of April one thousand eight hundred and sixty-two has served as second engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or as first or only engineer in any other steam ship, or who has attained or attains the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a "second-class engineers certificate" of service:

Each of such certificates of service shall contain particulars of the name, place and time of birth, and the length and nature of the previous service, of the person to whom the same is delivered; and the Board of Trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

Certain provisions of Merchant Shipping Act to apply to engineers certificates.

10. THE provisions of the principal Act, with respect to the certificates of competency or service of masters and mates, contained in the 138th, 139th, 140th, 161st, and 162nd sections of the said Act, shall apply to certificates of competency or service granted under this Act in the same manner as if certificates of competency and service to be granted to engineers under this Act were specially mentioned and included in the said sections.

Power of Board of Trade and local marine board to investigate conduct of certificated engineers.

11. THE power by the 241st section of the principal Act given to the Board of Trade or to any local marine board of instituting investigations into the conduct of any master or mate whom it has reason to believe to be from incompetency or misconduct unfit to discharge his duties, shall extend to any certificated engineer whom the Board of Trade or any local marine board has reason to believe to be from incompetency or misconduct unfit to discharge his duties, in the same manner as if in the said section the words "certificated engineer" had been inserted after "master" wherever "master" occurs in such section.

Declaration of engineer surveyor to contain statement concerning engineers certificates.

12. THE declaration required to be given by the engineer surveyor under section 309 of the principal Act shall, in the case of a ship by this Act required to have a certificated engineer, contain, in addition to the statements in the said section mentioned, a statement that the certificate or certificates of the engineer or engineers of such ship is or are such and in such condition as is required by this Act.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854).

Third part of Act to apply to fishing boats, lighthouse vessels, and pleasure yachts, with certain exceptions.

13. THE following vessels; that is to say,

(1) Registered seagoing ships exclusively employed in fishing on the coasts of the United Kingdom;

(2) Seagoing ships belonging to any of the three general lighthouse boards;

(3) Seagoing ships being pleasure yachts;

Shall be subject to the whole of the third part of the principal Act; except,—sections 136, 143, 145, 147, 149, 150, 151, 152, 153, 154, 155, 157, 158, 161, 162, 166, 170, 171, 231, 256, 279, 280, 281, 282, 283, 284, 285, 286, and 287.

Local marine board may determine number of quorum.

14. WHEREAS doubts have been entertained whether local marine boards have the power of determining a quorum: It is hereby declared, that the power by the 119th section of the principal Act given to every local marine board of regulating the mode in which its meetings are to be held and its business conducted includes the power of determining a quorum; nevertheless, after the passing of this Act such quorum shall never consist of less than three members.

Titles of shipping offices and shipping masters.

15. THE offices termed shipping offices in the principal Act shall be termed mercantile marine offices, and the officers termed shipping masters and deputy shipping masters in the principal Act shall be termed superintendents and deputy superintendents of such offices; but nothing in this section contained shall invalidate or affect any act which may be done at any such office under the title of a shipping office, or any act which may be done by, with, or to any of the said officers under the title of shipping master or deputy shipping master.

Punishment of officers of local marine boards for embezzlement, under 24 & 25 Vict. c. 96. s. 68.

16. ANY person appointed to any office or service by or under any local marine board shall be deemed to be a clerk or servant within the meaning of the sixty-eighth section of the Act of the twenty-fifth year of the reign of Her present Majesty, chapter ninety-six:

If any such person fraudulently applies or disposes of any chattel, money, or valuable security received by him whilst employed in such office or service for or on account of any such local marine board, or for or on account of any other public board or department, to his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him, or fraudulently withholds, retains, or keeps back the same or or any part thereof contrary to any lawful directions or instructions which he is required to obey in relation to such office or service, he shall be deemed guilty of embezzlement within the meaning of the said section:

Any such person shall, on conviction of such offence as aforesaid, be liable to the same pains and penalties as are thereby imposed upon any clerk or servant for embezzlement:

In any indictment against such person for such offence it shall be sufficient to charge any such chattel, money, or valuable security as the property either of the board by which he was appointed, or of the board or department for or on account of which he may have received the same; and no greater particularity in the description of the property shall be required in such indictment in order to sustain the same, or in proof of the offence alleged, than is required in respect of an indictment or the subject matter thereof by the seventy-first section of the said last-mentioned Act. 24 & 25 Vict. c. 96. s. 71.

17. WHEREAS it is expedient to make provision in certain cases for holding examinations of applicants for certificates of competency at places where there

Examinations of applicants for certificates at ports where there are no local marine boards.

are no local marine boards: Be it enacted, that the Board of Trade, if satisfied that serious inconvenience exists at any port in consequence of the distance which applicants for certificates have to travel in order to be examined, may, with the concurrence of any local marine board, send the examiner or examiners of that local marine board to the port where such inconvenience exists; and thereupon the said examiner or examiners shall proceed to such port and shall there examine the applicants in the presence of such person or persons (if any) as the Board of Trade may appoint for the purpose; and such examinations shall be conducted in the same manner and shall have the same effect as other examinations under the said Act.

Sect. 182 of principal Act not to extend to certain stipulations concerning salvage.

18. It is hereby declared that the 182d section of the principal Act does not apply to the case of any stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.

Payment of wages to seamen abroad under section 209 of principal Act.

19. The payment of seamen's wages required by the 209th section of the principal Act shall, wherever it is practicable so to do, be made in money and not by bill; and in cases where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of the said section, and to be indorsed as therein required, if produced out of the custody of the Board of Trade or of the Registrar General of Seamen, or of any superintendent of any mercantile marine office, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of the said section, and to be signed by one of the functionaries therein mentioned, shall also be received in evidence, and shall be deemed to be primâ facie evidence of the facts stated in such indorsement.

Extension of sect. 197 of Merchant Shipping Act.

20. The 197th section of the principal Act shall extend to seamen or apprentices who within the six months immediately preceding their death have belonged to a British ship; and such section shall be construed as if there were inserted in the first line thereof after the words "such seaman or "apprentice as last aforesaid" the words "or if any seaman or apprentice who "has within the six months immediately preceding his death belonged to a "British ship."

Recovery of wages, &c. of seamen lost with their ship.

21. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows; (that is to say,)

(1) The Board of Trade may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:

(2) In any proceedings for the recovery of such wages, if it is shown by some official return produced out of the custody of the Registrar General of Seamen or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board, either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable:

(3) The production out of the custody of the Registrar General of Seamen or of the Board of Trade of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the United Kingdom, or of a certificate purporting to be a certificate from a consular or other public officer at any port abroad, stating that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss:

(4) The Board of Trade shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under the principal Act.

Relief of distressed seamen abroad to be regulated by Board of Trade.

22. WHEREAS under the 211th and 212th sections of the principal Act, and the 16th section of "The Merchant Shipping Act Amendment Act, 1855." provision is made for relieving and sending home seamen found in distress abroad: And whereas doubts are entertained whether power exists under the said sections of making regulations and imposing conditions which are necessary for the prevention of desertion and misconduct and the undue expenditure of public money: Be it enacted, and it is hereby declared, that the claims of seamen to be relieved or sent home in pursuance of the said sections or any of them shall be subject to such regulations and dependent on such conditions as the Board of Trade may from time to time make or impose; and no seaman shall have any right to demand to be relieved or sent home except in the cases and to the extent provided for by such regulations and conditions.

Rules as to cancelling and suspending certificates.

23. THE following rules shall be observed with respect to the cancellation and suspension of certificates, that is to say:

(1) The power of cancelling or suspending the certificate of a master or mate by the 242d section of the principal Act conferred on the Board of Trade shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, Admiralty court or other

court or tribunal by which the case is investigated or tried, and shall not in future vest in or be exercised by the Board of Trade :

(2) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout such section after "master" or "masters" :

(3) Every such board, court, or tribunal shall at the conclusion of the case, or as soon afterwards as possible, state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their report :

(4) It shall be lawful for the Board of Trade, if they think the justice of the case require it, to reissue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended :

. . . . . .

(6) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor, in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.

Certificate to be delivered up.

24. EVERY master or mate or engineer whose certificate is or is to be suspended or cancelled in pursuance of this Act shall, upon demand of the board, court, or tribunal by which the case is investigated or tried, deliver his certificate to them, or, if it is not demanded by such board, court, or tribunal, shall, upon demand, deliver it to the Board of Trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds.

Safety (Part IV. of Merchant Shipping Act, 1854).

Regulations concerning lights and fog signals, and sailing rules, in schedule, table (C.), &c.

25. ON and after the first day of June one thousand eight hundred and sixty-three, or such later day as may be fixed for the purpose by Order in Council, the regulations contained in the table marked (C.) in the schedule hereto shall come into operation and be of the same force as if they were

enacted in the body of this Act; but Her Majesty may from time to time, on the joint recommendation of the Admiralty and the Board of Trade, by Order in Council, annul or modify any of the said regulations, or make new regulations in addition thereto or in substitution therefor; and any alterations in or additions to such regulations made in manner aforesaid shall be of the same force as the regulations in the said schedule.

Regulations to be published.

26. THE Board of Trade shall cause the said regulations and any alterations therein or additions thereto hereafter to be made to be printed, and shall furnish a copy thereof to any owner or master of a ship who applies for the same; and production of the Gazette in which any Order in Council containing such regulations or any alterations therein or additions thereto is published, or of a copy of such regulations, alterations, or additions, signed or purporting to be signed by one of the secretaries or assistant secretaries of the Board of Trade, or sealed or purporting to be sealed with the seal of the Board of Trade, shall be sufficient evidence of the due making and purport of such regulations, alterations, or additions.

Evidence of regulations.

Owners and masters bound to obey them.

27. ALL owners and masters of ships shall be bound to take notice of all such regulations as aforesaid, and shall, so long as the same continue in force, be bound to obey them, and to carry and exhibit no other lights and to use no other fog signals than such as are required by the said regulations; and in case of wilful default, the master, or the owner of the ship, if it appear that he was in such fault, shall, for each occasion upon which such regulations are infringed, be deemed to be guilty of a misdemeanor.

Damage from breaches of regulations to be deemed caused by wilful default of person in charge.

28. IN case any damage to person or property arises from the non-observance by any ship of any regulation made by or in pursuance of this Act, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of such ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.

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Proceedings for enforcing regulations.

30. THE following steps may be taken in order to enforce compliance with the said regulations; that is to say,

(1) The surveyors appointed under the third part of the principal Act, or such other persons as the Board of Trade may appoint for the purpose, may inspect any ships for the purpose of seeing that such ships are properly provided with lights and with the means of making fog signals in pursuance of the said regulations, and shall for that purpose have the powers given to inspectors by the 14th section of the principal Act:

(2) If any such surveyor or person finds that any ship is not so provided,

he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same:

(3) Every notice so given shall be communicated in such manner as the Board of Trade may direct to the collector or collectors of Customs at any port or ports from which such ship may seek to clear or at which her transire is to be obtained; and no collector to whom such communication is made shall clear such ship outwards or grant her a transire, or allow her to proceed to sea, without a certificate under the hand of one of the said surveyors or other persons appointed by the Board of Trade as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog signals in pursuance of the said regulations.

Rules for harbours under local Acts to continue in force.

31. ANY rules concerning the lights or signals to be carried by vessels navigating the waters of any harbour, river, or other inland navigation, or concerning the steps for avoiding collision to be taken by such vessels, which have been or are hereafter made by or under the authority of any local Act, shall continue and be of full force and effect, notwithstanding anything in this Act or in the schedule thereto contained.

In harbours and rivers where no such rules exist they may be made.

32. IN the case of any harbour, river, or other inland navigation for which such rules are not and cannot be made by or under the authority of any local Act, it shall be lawful for Her Majesty in Council, upon application from the harbour trust or body corporate, if any, owning or exercising jurisdiction upon the waters of such harbour, river, or inland navigation, or, if there is no such harbour trust or body corporate, upon application from persons interested in the navigation of such waters, to make rules concerning the lights or signals to be carried, and concerning the steps for avoiding collision to be taken by vessels navigating such waters; and such rules, when so made, shall, so far as regards vessels navigating such waters, have the same effect as if they were regulations contained in table (C.) in the schedule to this Act, notwithstanding anything in this Act or in the schedule thereto contained.

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Surveys of steamers.

34. NOTWITHSTANDING anything in the 311th section of the principal Act contained, it shall not be necessary for the surveys of passenger steamers to be made in the months of April and October; but no declaration shall be given by any surveyor under the fourth part of the said Act for a period exceeding six months; and no certificate issued by the Board of Trade shall remain in force more than six months from the date thereof.

Penalties on drunken or disorderly passengers;

35. THE following offenders, that is to say,

(1) Any person who, being drunken or disorderly, has been on that

account refused admission into any duly surveyed passenger steamer by the owner or any person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamer;

(2) Any person who, being drunken or disorderly on board any such steamer, is requested by the owner or any person in his employ to leave the same at any place in the United Kingdom at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

on persons molesting passengers;

(3) Any person on board any such steamer who, after warning by the master or any other officer of the steamer, molests or continues to molest any passenger;

on persons forcing their way on board the ship when full;

(4) Any person who, after having been refused admission into any such steamer by the owner or any person in his employ on account of such steamer being full, and who, after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same;

on persons refusing to quit the ship when full;

(5) Any person, having got on board any such steamer, who, upon being requested on the like account by the owner or any person in his employ to leave such steamer before the same has quitted the place at which such person got on board, and who, upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

or endeavouring to avoid payment of fares.

(6) Any person who travels or attempts to travel in any such steamer without having previously paid his fare, and with intent to avoid payment thereof;

(7) Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof;

(8) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer; and

(9) Any person on board any such steamer who does not, when required by the master or other officer of such steamer, either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamer;

Shall for every such offence be liable to a penalty not exceeding forty shillings; but such liability shall not prejudice the recovery of any fare payable by him.

Penalty for injuring steamer or molesting crew.

36. ANY person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of such steamer, or to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamer, or otherwise in the execution of their duty upon or about such steamer, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Detention and trial of offenders.

37. IT shall be lawful for the master or other officer of any duly surveyed passenger steamer, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

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Pilotage (Part V. of Merchant Shipping Act, 1854).

Sections 39 to 42 inclusive are omitted as not applying to India.

Lighthouses (Part VI. of Merchant Shipping Act, 1854).

Lights, &c. under local authorities to be inspected, &c. by general lighthouse authorities.

43. THE following rules shall be observed with respect to the inspection of local lighthouses, buoys, and beacons; that is to say,

(1) It shall be the duty of each of the general lighthouse authorities, or of such persons as may be authorized by such authority for the purpose, to inspect all lights, buoys, and beacons situate within the limits of the jurisdiction of such general authority, but belonging to or under the jurisdiction of any local authorities, and to make such inquiries in respect thereof and of the management thereof as they may think fit:

(2) All officers and others having the care of such lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish all such information and explanations concerning the same as they may require:

(3) All such local authorities and their respective officers shall at all times give to the inspecting authority all such returns, explanations, or information concerning the lighthouses, buoys, and beacons within

their jurisdiction, and the management thereof, as the said authority may from time to time require:

(4) The inspecting authority shall communicate to each local authority the results of its inspection of the lighthouses, buoys, and beacons within its jurisdiction, and shall also make general reports of the results of its inspection of local lighthouses, buoys, and beacons to the Board of Trade; and such reports shall be laid before Parliament:

(5) The powers given by the 394th section of the principal Act to the general lighthouse authorities shall, so far as the same are applicable, extend and apply to the case of local buoys and beacons, other than local buoys and beacons placed or erected for temporary purposes, as well as to the case of local lighthouses.

Liability for and recovery of light dues.

44. THE following persons shall be liable to pay light dues for any ship in respect of which light dues are payable; (that is to say,) the owner or master, or such consignees or agents thereof as have paid or made themselves liable to pay any other charge on account of such ship in the port of her arrival or discharge; and in default of payment such light dues may be recovered in the same manner as penalties of the like amount may be recovered by virtue of the principal Act.

Powers to consignees, &c. to retain light dues paid by them.

45. EVERY consignee and agent (not being the owner or master) hereby made liable for the payment of light dues in respect of any ship may, out of any monies in his hands received on account of such ship, or belonging to the owner thereof, retain the amount of all dues so paid by him, together with any reasonable expenses he may have incurred by reason of such payment or liability.

Dues may be fixed by Order in Council to be paid to local authorities.

46. IF any lighthouse, buoy, or beacon is erected or placed, or reconstructed, repaired, or replaced by any local authority having jurisdiction in the matter of lighthouses, buoys, or beacons, Her Majesty may, on the application of the said local authority, by Order in Council fix such dues to be paid to the said local authority in respect of every ship which enters the port or harbour under the jurisdiction of such local authority or the estuary wherein such lighthouse, buoy, or beacon is situate, and which passes the said lighthouse, buoy, or beacon, and derives benefit therefrom, as Her Majesty may deem reasonable:

The dues for the time being fixed by any such Order in Council as aforesaid shall be paid accordingly by the master of the said ship, or other person or persons by whom the said light dues, if levied by one of the general lighthouse authorities, would be payable, and shall be recoverable in the same manner as light dues payable to such general authorities are recoverable.

Application and accounts of such dues.

47. ALL light dues leviable by any local authority under this Act shall be applied for the purposes of the construction, placing, maintenance, and improvement of the lighthouses, buoys, and beacons in respect of which the same are levied, and for no other purpose:

The local authority to whom the same are paid shall keep a separate account of the receipt and expenditure of such dues, and shall once in every year, or at such other time as the Board of Trade may determine, send a copy of such account to the Board of Trade, and shall send the same in such form and shall give such particulars in relation thereto as the Board of Trade may require:

Her Majesty may by Order in Council from time to time reduce, alter, or increase all or any of such dues, so that the same may, so far as it is practicable, be sufficient and not more than sufficient for the payment of the expenses incurred by the local authority in respect of the lighthouses, buoys, or beacons for which the dues are levied.

Construction of sect. 431 of principal Act.

48. THE 431st section of the principal Act shall be read as if after the word "ships" there were inserted the words "and boats."

Wreck and Salvage (Part VIII. of Merchant Shipping Act, 1854).

Extension and amendment of provisions as to summary jurisdiction in small salvage cases.

49. THE provisions contained in the eighth part of the principal Act for giving summary jurisdiction to two justices in salvage cases, and for preventing unnecessary appeals and litigation in such cases, shall be amended as follows; (that is to say,)

(1) Such provision shall extend to all cases in which the value of the property saved does not exceed one thousand pounds, as well as to the cases provided for by the principal Act:

(2) Such provisions shall be held to apply whether the salvage service has been rendered within the limits of the United Kingdom or not:

(3) It shall be lawful for one of Her Majesty's Principal Secretaries of State, or in Ireland for the Lord Lieutenant or other Chief Governor or Governors, to appoint out of the justices for any borough or county a rota of justices by whom jurisdiction in salvage cases shall be exercised:

(4) When no such rota is appointed, it shall be lawful for the salvors, by writing addressed to the justice's clerk, to name one justice, and for the owner of the property saved in like manner to name the other:

(5) If either party fails to name a justice within a reasonable time, the case may be tried by two or more justices at petty sessions:

(6) It shall be competent for any stipendiary magistrate, and also in England for any county court judge, in Scotland for the sheriff or sheriff substitute of any county, and in Ireland for the recorder of

any borough in which there is a recorder, or for the chairman of quarter sessions in any county, to exercise the same jurisdiction in salvage cases as is given to two justices:

(7) It shall be lawful for one of Her Majesty's Principal Secretaries of State to determine a scale of costs to be awarded in salvage cases by any such justices or court as aforesaid:

(8) All the provisions of the principal Act relating to summary proceedings in salvage cases, and to the prevention of unnecessary appeals in such cases, shall, except so far as the same are altered by this Act, extend and apply to all such proceedings, whether under the principal Act or this Act, or both of such Acts.

Receiver of wreck may appoint a valuer, &c. in salvage cases.

50. WHENEVER any salvage question arises the receiver of wreck for the district may, upon application from either of the parties, appoint a valuer to value the property in respect of which the salvage claim is made, and shall, when the valuation has been returned to him, give a copy of the valuation to both parties; and any copy of such valuation, purporting to be signed by the valuer, and to be attested by the receiver, shall be received in evidence in any subsequent proceeding; and there shall be paid in respect of such valuation, by the party applying for the same, such fee as the Board of Trade may direct.

Jurisdiction of Court of Session in salvage cases.

51. THE words "Court of Session" in the four hundred and sixty-eighth section of the principal Act shall he deemed to mean and include either division of the Court of Session or the Lord Ordinary officiating on the Bills during vacation.

Delivery of wreck by receiver to discharge him from liability, but not to prejudice title.

52. UPON delivery of wreck or of the proceeds of wreck by any receiver to any person in pursuance of the provisions of the eighth part of the principal Act such receiver shall be discharged from all liability in respect thereof; but such delivery shall not be deemed to prejudice or affect any question concerning the right or title to the said wreck which may be raised by third parties; nor shall any such delivery prejudice or affect any question concerning the title to the soil on which the wreck may have been found.

17 & 18 Vict. c. 104. s. 475.

53. WHEREAS by the principal Act it is provided that the proceeds of wreck, if the same is not claimed by the owner within a year, and if no person other than Her Majesty, her heirs and successors, is proved to be entitled thereto, shall, subject to certain deductions, be paid into the receipt of Her Majesty's Exchequer in such manner as the Commissioners of the Treasury may direct, and that the same shall be carried to and form part of the Consolidated Fund of the United Kingdom:

And whereas doubts have been entertained whether the said last-recited provision is consistent with the arrangements concerning the hereditary revenues of the Crown effected by the Act of the first year of Her present Majesty,

1 & 2 Vict. c. 2.

chapter two: And whereas doubts have also been entertained whether due provision is made by the said Act for paying to the revenues of the Duchies of Lancaster and Cornwall respectively such of the said proceeds as may belong to those Duchies:

Application of proceeds of wreck belonging to the Crown.

It is hereby declared, that such of the said proceeds of wreck as belong to Her Majesty in right of her Crown shall, during the life of Her present Majesty, (whom God long preserve), be carried to and form part of the Consolidated Fund of the United Kingdom, and shall after the decease of Her present Majesty (whom God long preserve) be payable and paid to Her Majesty's heirs and successors:

And it is hereby further declared, that such of the said proceeds of wreck as belong to Her Majesty in right of her Duchy of Lancaster shall be paid to the Receiver General of the said Duchy or his sufficient deputy or deputies as part of the revenues of the said Duchy, and be dealt with accordingly:

And it is hereby further declared and enacted, that the provision in the principal Act contained regarding the sale of unclaimed wreck to which no owner establishes his claim within the period of one year, and to which no admiral, vice admiral, lord of any manor, or person other than Her Majesty, her heirs and successors, is proved to be entitled, is intended and shall be construed to apply to wreck of the sea belonging to Her Majesty, her heirs and successors, in respect of the Duchy of Cornwall, or to the Duke of Cornwall for the time being in respect of his Duchy of Cornwall: But that the proceeds of such wreck shall, subject to such deductions as are in the same Act mentioned, form part of the revenues of the Duchy of Cornwall, and be dealt with accordingly.

Liability of Shipowners (Part IX. of Merchant Shipping Act, 1854).

Shipowners liability limited.

54. THE owners of any ship, whether British or foreign, shall not, in cases where all or any of the following events occur without their actual fault or rivity, that is to say,

(1) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship;

(3) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person carried in any other ship or boat;

(4) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any

goods, merchandise, or other things whatsoever on board any other ship or boat;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise, or other things, to an aggregate amount exceeding fifteen pounds for each ton of their ship's tonnage; nor in respect of loss or damage to ships, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding eight pounds for each ton of the ship's tonnage; such tonnage to be the registered tonnage in the case of sailing ships, and in the case of steam ships the gross tonnage without deduction on account of engine room:

In the case of any foreign ship which has been or can be measured according to British law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship:

In the case of any foreign ship which has not been and cannot be measured under British law, the surveyor general of tonnage in the United Kingdom, and the chief measuring officer in any British possession abroad, shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as it may be found practicable to furnish, give a certificate under his hand, stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to British law; and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

Limitation of invalidity of insurances.

55. INSURANCES effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.

Proof of passengers on board lost ship.

56. IN any proceeding under the 506th section of the principal Act or any Act amending the same against the owner of any ship or share therein in respect of loss of life, the master's list or the duplicate list of passengers delivered to the proper officer of Customs under the 16th section of "The "Passengers Act, 1855," shall, in the absence of proof to the contrary, be sufficient proof that the persons in respect of whose death any such prosecution or proceeding is instituted were passengers on board such ship at the time of their deaths.

Arrangements concerning Lights, Sailing Rules, Salvage, and Measurement of Tonnage, in the Case of Foreign Ships.

Foreign ships in British jurisdiction to be subject

57. WHENEVER foreign ships are within British jurisdiction, the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force

to regulations in table (C.) in schedule, &c.

under this Act, and all provisions of this Act relating to such regulations, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any British court of justice concerning matters happening within British jurisdiction, foreign ships shall, so far as regards such regulations and provisions, be treated as if they were British ships.

Regulations, when adopted by a foreign country, may be applied to its ships on the high seas.

58. WHENEVER it is made to appear to Her Majesty that the government of any foreign country is willing that the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, or any of the said regulations, or any provisions of this Act relating to collisions, should apply to the ships of such country when beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that such regulations, and all provisions of this Act which relate to such regulations, and all such other provisions as aforesaid, shall apply to the ships of the said foreign country, whether within British jurisdiction or not.

Provisions concerning salvage of life may, with the consent of any foreign country, be applied to its ships on the high seas.

59. WHENEVER it is made to appear to Her Majesty that the government of any foreign country is willing that salvage shall be awarded by British courts for services rendered in saving life from any ship belonging to such country when such ship is beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that the provisions of the principal Act and of this Act, with respect to salvage for services rendered in saving life from British ships, shall in all British courts be held to apply to services rendered in saving life from the ships of such foreign country, whether such services are rendered within British jurisdiction or not.

Ships of foreign countries adopting the rule for measurement of tonnage need not be remeasured in this country.

60. WHENEVER it is made to appear to Her Majesty that the rules concerning the measurement of tonnage of merchant ships for the time being in force under the principal Act have been adopted by the government of any foreign country, and are in force in that country, it shall be lawful for Her Majesty by Order in Council to direct that the ships of such foreign country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and thereupon it shall no longer be necessary for such ships to be re-measured in any port or place in Her Majesty's dominions, but such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other papers, in the same manner, to the same extent, and for the same purposes, in, to, and for which the tonnage denoted in the certificates of registry of British ships is deemed to be the tonnage of such ships.

Effect of Order in Council as to foreign ships.

61. WHENEVER an Order in Council has been issued under this Act, applying any provision of this Act or any regulation made by or in pursuance of this Act to the ships of any foreign country, such ships shall in all cases

arising in any British court be deemed to be subject to such provision or regulation, and shall for the purpose of such provision or regulation be treated as if they were British ships.

Orders in Council may be limited as to time, and qualified.

62. In issuing any Order in Council under this Act Her Majesty may limit the time during which it is to remain in operation, and may make the same subject to such conditions and qualifications, if any, as may be deemed expedient; and thereupon the operation of the said Order shall be limited and modified accordingly.

Orders in Council may be revoked and altered.

63. Her Majesty may by Order in Council from time to time revoke or alter any order previously made under this Act.

Orders in Council to be published in London Gazette.

64. Every Order in Council to be made under this Act shall be published in the London Gazette as soon as may be after the making thereof; and the production of a copy of the London Gazette containing such Order shall be received in evidence, and shall be proof that the Order therein published has been duly made and issued; and it shall not be necessary to plead such Order specially.

Legal Procedure.

20 & 21 Vict. c. 43. s. 3. not to apply to proceedings under Board of Trade or this Act, &c., except as to payment of fees.

65. Nothing in the third section of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, except so much thereof as provides for the payment of any fees that may be due to the clerk of the justices, shall be deemed to apply to extend to any proceeding under the direction of the Board of Trade, or under or by virtue of the provisions of the principal Act or this Act, or any Act amending the same.

Delivery of Goods and Lien for Freight.

Interpretation of terms.

66. The following terms used in the sections of this Act herein-after contained shall have the respective meanings hereby assigned to them, if not inconsistent with the context or subject matter; that is to say,

"Report."

The word "report" shall mean the report required by the Customs laws to be made by the master of any importing ship:

"Entry."

The word "entry" shall mean the entry required by the Customs laws to be made for the landing or discharge of goods from an importing ship:

"Goods."

The word "goods" shall include every description of wares and merchandise:

"Wharf."

The word "wharf" shall include all wharves, quays, docks, and premises, in or upon which any goods when landed from ships may be lawfully placed:

"Warehouse." The word "warehouse" shall include all warehouses, buildings, and premises, in which goods when landed from ships may be lawfully placed:

"Wharf owner." The expression "wharf owner" shall mean the occupier of any wharf, as herein-before defined:

"Warehouse owner." The expression "warehouse owner" shall mean the occupier of any warehouse, as herein-before defined:

"Shipowner." The word "shipowner" shall include the master of the ship and every other person authorized to act as agent for the owner, or entitled to receive the freight, demurrage, or other charges payable in respect of such ship:

"Owner of goods." The expression "owner of goods" shall include every person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien, if any, to such lien.

Power to shipowner to enter and land goods in default of entry and landing by owner of goods.

67. WHERE the owner of any goods imported in any ship from foreign parts into the United Kingdom fails to make entry thereof, or having made entry thereof to land the same or take delivery thereof and to proceed therewith with all convenient speed, by the times severally herein-after mentioned, the shipowner may make entry of and land or unship the said goods at the times, in the manner, and subject to the conditions following; (that is to say,)

(1) If a time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the time so expressed:

(2) If no time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, after the report of the ship:

(3) If any wharf or warehouse is named in the charter party, bill of lading, or agreement, as the wharf or warehouse where the goods are to be placed, and if they can be conveniently there received, the shipowner in landing them by virtue of this enactment shall cause them to be placed on such wharf or in such warehouse:

(4) In other cases the shipowner in landing goods by virtue of this enactment shall place them in or on some wharf or warehouse on or in which goods of a like nature are usually placed; such wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the Commissioners of Customs for the landing of dutiable goods:

(5) If at any time before the goods are landed or unshipped the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed so to do; and his entry shall in such case be preferred to any entry which may have been made by the shipowner:

(6) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, and the owner of the goods at the time of such landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, such goods shall be assorted at landing, and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment; and the expense of and consequent on such landing and assortment shall be borne by the shipowner;

(7) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and warehousing thereof at any particular wharf or warehouse other than that at which the ship is discharging, and has offered and been ready to take delivery thereof, and the shipowner has failed to make such delivery and has also failed at the time of such offer to give the owner of the goods correct information of the time at which such goods can be delivered, then the shipowner shall, before landing or unshipping such goods under the power hereby given to him, give to the owner of the goods or of such wharf or warehouse as last aforesaid twenty-four hours notice in writing of his readiness to deliver the goods, and shall, if he lands or unships the same without such notice, do so at his own risk and expense.

If, when goods are landed, the shipowner give notice for that purpose, the lien for freight shall continue.

68. If, at the time when any goods are landed from any ship, and placed in the custody of any person as a wharf or warehouse owner, the shipowner gives to the wharf or warehouse owner notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount to be mentioned in such notice, the goods so landed shall, in the hands of the wharf or warehouse owner, continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof; and the wharf or warehouse owner receiving such goods shall retain them until the lien is discharged as herein-after mentioned, and shall, if he fail so to do, make good to the shipowner any loss thereby occasioned to him.

Lien to be discharged on proof of payment.

69. Upon the production to the wharf or warehouse owner of a receipt for the amount claimed as due, and delivery to the wharf or warehouse owner of a copy thereof or of a release of freight from the shipowner, the said lien shall be discharged.

Lien to be discharged on deposit of amount with warehouse owner.

70. The owner of the goods may deposit with the wharf or warehouse owner a sum of money equal in amount to the sum so claimed as aforesaid by the shipowner, and thereupon the lien shall be discharged; but without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

Warehouse owner may at the end of 15 days, if no notice is given, pay deposit to shipowner.

71. If such deposit as aforesaid is made with the wharf or warehouse owner, and the person making the same does not within fifteen days after making it give to the wharf or warehouse owner notice in writing to retain it, stating in such notice the sum, if any, which he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, the wharf or warehouse owner may, at the expiration of such fifteen days, pay the sum so deposited over to the shipowner, and shall by such payment be discharged from all liability in respect thereof.

Course to be taken if notice to retain deposit is given.

72. If such deposit as aforesaid is made with the wharf or warehouse owner, and the person making the same does within fifteen days after making it give to the wharf or warehouse owner such notice in writing as aforesaid, the wharf or warehouse owner shall immediately apprize the shipowner of such notice, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by such notice to be payable, and shall retain the remainder or balance, or, if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the said notice; and at the expiration of such thirty days, unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum or otherwise for the settlement of any disputes which may have arisen between them concerning such freight or other charges as aforesaid, and notice in writing of such proceedings has been served on him, the wharf or warehouse owner shall pay the said balance or sum over to the owner of the goods, and shall by such payment be discharged from all liability in respect thereof.

After 90 days warehouse owner may sell goods by public auction.

73. If the lien is not discharged, and no deposit is made as herein-before mentioned, the wharf or warehouse owner may, and, if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as he in his discretion thinks fit, sell by public auction, either for home use or exportation, the said goods or so much thereof as may be necessary to satisfy the charges herein-after mentioned.

Notices of sale to be given.

74. Before making such sale the wharf or warehouse owner shall give notice thereof by advertisement in two newspapers circulating in the neighbourhood, or in one daily newspaper published in London and in one local newspaper, and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come

into the possession of the wharf or warehouse owner, or is otherwise known to him, give notice of the sale to the owner of the goods by letter sent by the post; but the title of a bonâ fide purchaser of such goods shall not be invalidated by reason of the omission to send notice as herein-before mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Monies arising from sale, how to be applied.

75. In every case of any such sale as aforesaid the wharf or warehouse owner shall apply the monies received from the sale as follows, and in the following order:

1. If the goods are sold for home use, in payment of any Customs or Excise duties owing in respect thereof:
2. In payment of the expenses of the sale:
3. In the absence of any agreement between the wharf or warehouse owner and the shipowner concerning the priority of their respective charges, in payment of the rent, rates, and other charges due to the wharf or warehouse owner in respect of the said goods:
4. In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods:
5. But in case of any agreement between the wharf or warehouse owner and the shipowner concerning the priority of their respective charges, then such charges shall have priority according to the terms of such agreement:

and the surplus, if any, shall be paid to the owner of the goods.

Warehouse owners rent and expenses.

76. Whenever goods are placed in the custody of a wharf or warehouse owner under the authority of this Act, the said wharf or warehouse owner shall be entitled to rent in respect of the same, and shall also have power from time to time, at the expense of the owner of the goods, to do all such reasonable acts as in the judgment of the said wharf or warehouse owner are necessary for the proper custody and preservation of the said goods, and shall have a lien on the said goods for the said rent and expenses.

Restrictions on liability of warehouse owners.

77. Nothing in this Act contained shall compel any wharf or warehouse owner to take charge of any goods which he would not be liable to take charge of if this Act had not passed; nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Act.

Saving of powers under local Acts.

78. Nothing in this Act contained shall take away or abridge any powers given by any local Act to any harbour trust, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor shall anything in this Act contained take away or diminish any rights or remedies given to any shipowner or wharf or warehouse owner by any local Act.

The SCHEDULE referred to in this Act.

. . . . . .

TABLE (B.) See Sect. 6.

Fees to be charged on Examination of Engineers.

For a first-class engineers certificate	£2 0 0
For a second-class engineers certificate	1 0 0

TABLE (C.) See Sect. 25.

REGULATIONS for preventing Collisions at Sea.

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Article 1. Preliminary.

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2. Lights to be carried as follows:—
3. Lights for steam ships.
4. Lights for steam tugs.
5. Lights for sailing ships.
6. Exceptional lights for small sailing vessels.
7. Lights for ships at anchor.
8. Lights for pilot vessels.
9. Lights for fishing vessels and boats.

Rules concerning Fog Signals.

10. Fog signals.

Steering and Sailing Rules.

11. Two sailing ships meeting.
12. Two sailing ships crossing.
13. Two ships under steam meeting.
14. Two ships under steam crossing.
15. Sailing ship and ship under steam.
16. Ships under steam to slacken speed.
17. Vessels overtaking other vessels.
18. Construction of articles 12, 14, 15 and 17.
19. Proviso to save special cases.
20. No ship under any circumstances to neglect proper precautions.

Preliminary.

Art. 1. In the following rules every steam ship which is under sail and not under steam is to be considered a sailing ship; and every steam ship which is under steam, whether under sail or not, is to be considered a ship under steam.

Rules concerning Lights.

Art. 2. The lights mentioned in the following articles, and no others, shall be carried in all weathers between sunset and sunrise.

Art. 3. Seagoing steam ships when under weigh shall carry:

(*a*) *At the foremast head,* a bright white light so fixed as to show an uniform and unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the ship, viz., from right ahead to 2 points abaft the beam on either side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least five miles:

(*b*) *On the starboard side,* a green light so constructed as to throw an uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles:

(*c*) *On the port side,* a red light, so constructed as to show an uniform unbroken ligh over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles:

(*d*) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Art. 4. Steam ships when towing other ships shall carry two bright white mast-head lights vertically, in addition to their side lights, so as to distinguish them from other steam ships. Each of these mast-head lights shall be of the same construction and character as the mast-head lights which other steam ships are required to carry.

Art. 5. Sailing ships under weigh or being towed shall carry the same lights as steam ships under weigh, with the exception of the white mast-head lights, which they shall never carry.

Art. 6. Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck on their respective sides of the vessel ready for instant exhibition, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, they shall each be painted outside with the colour of the light they respectively contain, and shall be provided with suitable screens.

Art. 7. Ships, whether steam ships or sailing ships, when at anchor in roadsteads or fairways, shall between sunrise and sunset exhibit, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all round the horizon, and at a distance of at least one mile.

Art. 8. Sailing pilot vessels shall not carry the lights required for other sailing vessels, but shall carry a white light at the mast head visible all round the horizon,—and shall also exhibit a flare-up light every fifteen minutes.

Art. 9. Open fishing boats and other open boats shall not be required to carry side lights required for other vessels; but shall, if they do not carry such lights, carry a lantern having a green slide on the one side and a red slide on the other side; and on the approach of or to other vessels such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

Fishing vessels and open boats when at anchor or attached to their nets and stationary shall exhibit a bright white light.

Fishing vessels and open boats shall, however, not be prevented from using a flare-up in addition, if considered expedient.

Rules concerning Fog Signals.

Art. 10. Whenever there is fog, whether by day or night, the fog signals described below shall be carried and used, and shall be sounded at least every five minutes; viz.—

(*a*) Steam ships under weigh shall use a steam whistle placed before the funnel not less than eight feet from the deck.

(*b*) Sailing ships under weigh shall use a fog horn.

(*c*) Steam ships and sailing ships when not under weigh shall use a bell.

Steering and Sailing Rules.

Art. 11. If two sailing ships are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Art. 12. When two sailing ships are crossing so as to involve risk of collision, then if they have the wind on different sides, the ship with the wind on the port side shall keep out of the way of the ship with the wind on the starboard side, except in the case in which the ship with the wind on the port side is close hauled and the other ship free, in which case the latter ship shall keep out of the way; but if they have the wind on the same side, or if one of them has the wind aft, the ship which is to windward shall keep out of the way of the ship which is to leeward.

Art. 13. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port so that each may pass on the port side of the other.

Art. 14. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 15. If two ships, one of which is a sailing ship and the other a steam ship, are proceeding in such directions as to involve risk of collision, the steam ship shall keep out of the way of the sailing ship.

Art. 16. Every steam ship, when approaching another ship so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse; and every steam ship shall, when in a fog, go at a moderate speed.

Art. 17. Every vessel overtaking any other vessel shall keep out of the way of the said last-mentioned vessel.

Art. 18. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course, subject to the qualifications contained in the following article.

Art. 19. In obeying and construing these rules due regard must be had to all dangers of navigation; and due regard must also be had to any special circumstances which may exist in any particular case rendering a departure from the above rules necessary in order to avoid immediate danger.

Art. 20. Nothing in these rules shall exonerate any ship or the owner or master or crew thereof from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen or by the special circumstances of the case.

25 & 26 VICTORIA. A. D. 1862.

CHAPTER LXVIII.

An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works.

[*29th July 1862.*]

WHEREAS by law, as now established, the authors of paintings, drawings, and photographs have no copyright in such their works; and it is expedient that the law should in that respect be amended: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Copyright in paintings, &c. hereafter made or sold to vest in the author for his life and for seven years after his death.

1. THE author, being a British subject or resident within the dominions of the Crown, of every original painting, drawing, and photograph which shall be or shall have been made either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of this Act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing, and multiplying such painting or drawing, and the design thereof, or such photograph, and the negative thereof, by any means and of any size, for the term of the natural life of such author, and seven years after his death; provided, that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any other person for a good or a valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale or disposition, by the vendee or assignee of such painting or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be so made or executed, but the copyright shall belong to the vendee or assignee of such painting or drawing, or of such negative of a photograph, or to the person for or on whose behalf the same shall have been made or executed; nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorized, shall have been made to that effect.

Copyright not to prevent the representation

2. NOTHING herein contained shall prejudice the right of any person to copy or use any work in which there shall be no copyright, or to represent

of the same subjects in other works.

any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

Copyright to be personal estate.

Assignments, licences, &c. to be in writing.

3. ALL copyright under this Act shall be deemed personal or moveable estate, and shall be assignable at law; and every assignment thereof, and every licence to use or copy by any means or process the design or work which shall be the subject of such copyright, shall be made by some note or memorandum in writing, to be signed by the proprietor of the copyright, or by his agent appointed for that purpose in writing.

Register of proprietors of copyright in paintings, drawings, and photographs to be kept at Stationers Hall by the officer appointed for the purposes of 5 & 6 Vict. c. 45.

4. THERE shall be kept at the hall of the Stationers Company, by the officer appointed by the said Company for the purposes of the Act passed in the sixth year of Her present Majesty, intituled "An Act to amend the law of copyright," a book or books, entitled "The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this Act, and also of every subsequent assignment of any such copyright; and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work; and no proprietor of any such copyright shall be entitled to the benefit of this Act until such registration; and no action shall be sustainable nor any penalty be recoverable in respect of anything done before registration.

Certain enactments of 5 & 6 Vict. c. 45. to apply to the register to be kept under this Act.

5. THE several enactments in the said Act of the sixth year of Her present Majesty contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this Act, and to the entries and assignments of copyright and proprietorship therein under this Act, in such and the same manner as if such enactments were here expressly enacted in relation thereto; save and except that the forms of entry prescribed by the said Act of the sixth year of Her present Majesty may be varied to meet the circumstances of the case, and that the

sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

Penalties on infringement of copyright.

6. If the author of any painting, drawing, or photograph in which there shall be subsisting copyright, after having sold or disposed of such copyright, or if any other person, not being the proprietor for the time being of copyright in any painting, drawing, or photograph, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply for sale, hire, exhibition, or distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for sale, hire, exhibition, or distribution, any such work or the design thereof, or, knowing that any such repetition, copy, or other imitation has been unlawfully made, shall import into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or cause or procure to be imported, sold, published, let to hire, distributed, or offered for sale, hire, exhibition, or distribution, any repetition, copy, or imitation of the said work, or of the design thereof, made without such consent as aforesaid, such person for every such offence shall forfeit to the proprietor of the copyright for the time being a sum not exceeding ten pounds; and all such repetitions, copies, and imitations made without such consent as aforesaid, and all negatives of photographs made for the purpose of obtaining such copies, shall be forfeited to the proprietor of the copyright.

Penalties on fraudulent productions and sales.

7. No person shall do or cause to be done any or either of the following acts; that is to say,

First, no person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing, or photograph, or the negative thereof, any name, initials, or monogram:

Secondly, no person shall fraudulently sell, publish, exhibit, or dispose of, or offer for sale, exhibition, or distribution, any painting, drawing, or photograph, or negative of a photograph, having thereon the name, initials, or monogram of a person who did not execute or make such work:

Thirdly, no person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken:

Fourthly, where the author or maker of any painting, drawing, or photograph, or negative of a photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the

possession of such work, if any alteration shall afterwards be made therein by any other person, by addition or otherwise, no person shall be at liberty, during the life of the author or maker of such work, without his consent, to make or knowingly to sell or publish, or offer for sale, such work or any copies of such work so altered as aforesaid, or of any part thereof, as or for the unaltered work of such author or maker: Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations, or altered works shall have been sold or offered for sale; and all such copies, engravings, imitations, or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials, or monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid: Provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed.

Recovery of pecuniary penalties.

8. ALL pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this Act, and pursuant to any Act for the protection of copyright engravings, may be recovered by the person hereinbefore and in any such Act as aforesaid empowered to recover the same respectively, and herein-after called the complainant or the complainer, as follows:

In England and Ireland.

In England and Ireland, either by action against the party offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides:

In Scotland.

In Scotland by action before the Court of Session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending, or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable to the penalty or penalties aforesaid, as also in expenses; and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzieing the defender, to

find the complainer liable in expenses; and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise.

Superior Courts of Record in which any action is pending may make an order for an injunction, inspection, or account.

9. In any action in any of Her Majesty's Superior Courts of Record at Westminster and in Dublin, for the infringement of any such copyright as aforesaid, it shall be lawful for the Court in which such action is pending, if the Court be then sitting, or, if the Court be not sitting, then for a judge of such Court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection, or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such Court or judge may seem fit.

Importation of pirated works prohibited.

10. All repetitions, copies, or imitations of paintings, drawings, or photographs, wherein or in the design whereof there shall be subsisting copyright under this Act, and all repetitions, copies, and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this Act, shall have been made in any foreign state, or in any part of the British dominions, are hereby absolutely prohibited to be imported into any part of the United Kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorized in writing; and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies, or imitations of any such painting, drawing, or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of Her Majesty's Customs.

Right to bring action for damages, &c.

11. If the author of any painting, drawing, or photograph, in which there shall be subsisting copyright, after having sold or otherwise disposed of such copyright, or if any other person, not being the proprietor for the time being of such copyright, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for sale, hire, exhibition, or distribution, any such work or the design thereof, or the negative of any such photograph, or shall import or cause to be imported into any part of the United Kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or cause or procure to be sold, published, let to hire, exhibited, or distributed, or offered for sale, hire, exhibition, or distribution, any repetition, copy, or imitation of such work, or the design thereof, or the negative of any such photograph, made without such consent as aforesaid, then every such proprietor, in addition to the remedies hereby

given for the recovery of any such penalties, and forfeiture of any such things as aforesaid, may recover damages by and in a special action on the case, to be brought against the person so offending, and may in such action recover and enforce the delivery to him of all unlawful repetitions, copies, and imitations, and negatives of photographs, or may recover damages for the retention or conversion thereof: Provided, that nothing herein contained, nor any proceeding, conviction, or judgment, for any act hereby forbidden, shall affect any remedy which any person aggrieved by such act may be entitled to either at law or in equity.

Provisions of 7 & 8 Vict. c. 12. to be considered as included in this Act.

12. THIS Act shall be considered as including the provisions of the Act passed in the session of Parliament held in the seventh and eighth years of Her present Majesty, intituled "An Act to amend the law relating to international copyright," in the same manner as if such provisions were part of this Act.

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26 & 27 VICTORIA. A. D. 1863.

CHAPTER XXIV.

An Act to facilitate the Appointment of Vice Admirals and of Officers in Vice Admiralty Courts in Her Majesty's Possessions abroad, and to confirm the past Proceedings, to extend the Jurisdiction, and to amend the Practice of those Courts. [*8th June 1863.*]

WHEREAS it is expedient to facilitate the appointment of vice admirals and of officers in Vice Admiralty Courts in Her Majesty's possessions abroad, and to confirm the past proceedings, to extend the jurisdiction, and to amend the practice of those Courts: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as the "Vice Admiralty Courts Act, 1863."

Interpretation of terms.

2. IN the interpretation and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings herein-after assigned to them; that is to say,

"Her Majesty" shall mean Her Majesty, her heirs and successors:

The "Admiralty" shall mean the Lord High Admiral or the Commissioners for executing his Office:

"British possession" shall mean any colony, plantation, settlement, island, or territory being a part of Her Majesty's Dominions, but not being

within the limits of the United Kingdom of Great Britain and Ireland, or of Her Majesty's possessions in India:

"Governor" shall mean the officer for the time being lawfully administering the government of any British possession:

"Vice Admiralty Court" shall mean any of the existing Vice Admiralty Courts enumerated in the schedule marked A. hereto annexed, or any Vice Admiralty Court which shall hereafter be established in any British possession:

"Ship" shall include every description of vessel used in navigation not propelled by oars only, whether British or foreign:

"Cause" shall include any cause, suit, action, or other proceeding instituted in any Vice Admiralty Court.

Appointment of vice admiral.

3. In any British possession, where the office of vice admiral is now or shall at any time hereafter become vacant, the Governor of such possession shall be ex officio vice admiral thereof, until a notification is received in the possession that a formal appointment to that office has been made by the Admiralty in the manner herein-after mentioned.

Appointment of judge.

4. In any British possession, where the office of judge of a Vice Admiralty Court is now or shall at any time hereafter become vacant, the chief justice, or the principal judicial officer of such possession, or the person for the time being lawfully authorized to act as such, shall be ex officio judge of the Vice Admiralty Court, until a notification is received in the possession that a formal appointment to that office has been made by the Admiralty in the manner herein-after mentioned.

Appointment of registrar and marshal.

5. In any British possession, where the office of registrar or marshal of any Vice Admiralty Court is now or shall at any time hereafter become vacant, the judge of the Court may, with the approval of the Governor, appoint some person to the vacant office, until a notification is received in the possession that a formal appointment thereto has been made by the Admiralty in the manner herein-after mentioned, and may, for good and reasonable cause, to be approved by the Governor, remove the person so appointed. The judge may also appoint some person to act as registrar or marshal during the temporary absence of either of those officers.

Vacancies, &c. to be notified to Secretary of State.

6. On any vacancy in the office of judge, registrar, or marshal of any Vice Admiralty Court, the Governor of the British possession in which the Court is established shall, as soon as is practicable, communicate to one of Her Majesty's Principal Secretaries of State the fact of the vacancy, and the name of the person succeeding or appointed to the vacant office.

Saving the powers of the Admiralty.

7. Nothing in this Act contained shall be taken to affect the power of the Admiralty to appoint any vice admiral, or any judge, registrar, marshal, or

other officer of any Vice Admiralty Court, as heretofore, by warrant from the Admiralty, and by letters patent issued under seal of the High Court of Admiralty of England.

Past proceedings confirmed.

8. No act done by any person in the capacity of judge, registrar or marshal of any Vice Admiralty Court, which shall not have been set aside by any competent authority before the passing of this Act, shall be held invalid by reason that such person had not been duly appointed; but all such acts shall be as valid and effectual as if done by a person duly appointed.

Protection of officers.

9. No action, prosecution, or other proceeding shall be brought against any such person by reason of the illegality or informality of any act hereby declared to be valid and effectual.

Jurisdiction of Vice Admiralty Courts.

10. THE matters in respect of which the Vice Admiralty Courts shall have jurisdiction as are follow:

(1) Claims for seamen's wages:

(2) Claims for master's wages, and for his disbursements on account of the ship:

(3) Claims in respect of pilotage:

(4) Claims in respect of salvage of any ship, or of life or goods there from:

(5) Claims in respect of towage:

(6) Claims for damage done by any ship:

(7) Claims in respect of bottomry or respondentia bonds:

(8) Claims in respect of any mortgage, where the ship has been sold by a decree of the Vice Admiralty Court, and the proceeds are under its control:

(9) Claims between the owners of any ship registered in the possession in which the Court is established, touching the ownership, possession, employment, or earnings of such ship:

(10) Claims for necessaries supplied, in the possession in which the Court is established, to any ship of which no owner or part owner is domiciled within the possession at the time of the necessaries being supplied:

(11) Claims in respect of the building, equipping, or repairing within any British possession of any ship of which no owner or part owner is domiciled within the possession at the time of the work being done.

Further jurisdiction of Vice Admiralty Courts.

11. THE Vice Admiralty Courts shall also have jurisdiction—

(1) In all cases of breach of the regulations and instructions relating to Her Majesty's Navy at sea:

(2) In all matters arising out of droits of Admiralty.

Act not to restrict existing jurisdiction.

12. Nothing contained in this Act shall be construed to take away or restrict the jurisdiction conferred upon any Vice Admiralty Court by any Act of Parliament in respect of seizures for breach of the revenue, customs, trade, or navigation laws, or of the laws relating to the abolition of the slave trade, or to the capture and destruction of pirates and piratical vessels, or any other jurisdiction now lawfully exercised by any such Court; or any jurisdiction now lawfully exercised by any other court within Her Majesty's dominions.

Limits of jurisdiction.

13. The jurisdiction of the Vice Admiralty Courts, except where it is expressly confined by this Act to matters arising within the possession in which the Court is established, may be exercised, whether the cause or right of action has arisen within or beyond the limits of such possession.

Her Majesty may establish and alter rules and tables of fees.

14. Her Majesty may, by Order in Council, from time to time establish rules touching the practice to be observed in the Vice Admiralty Courts, as also tables of the fees to be taken by the officers and practitioners thereof for all acts to be done therein, and may repeal and alter the existing and all future rules and tables of fees, and establish new rules and tables of fees in addition thereto, or in lieu thereof.

Rules and tables of fees to be laid before the House of Commons;

15. A copy of any rules or tables of fees which may at any time be established shall be laid before the House of Commons within three months from the establishing thereof, or if Parliament shall not be then sitting, or if the session shall terminate within one month from that date, then within one month after the commencement of the next session.

and to be entered in the records of the Courts, &c.;

16. The rules and tables of fees in force in any Vice Admiralty Court shall, as soon as possible after they have been received in the British possession in which the Court is established, be entered by the registrar in the public books or records of the Court; and the books or records in which they are so entered shall at all reasonable times be open to the inspection of the practitioners and suitors in the Court.

and a copy to be hung up in Court, &c.

17. A copy of the rules and tables of fees in force in any Vice Admiralty Court shall be kept constantly hung up in some conspicuous place as well in the Court as in the office of the registrar.

Established fees to be the only fees taken.

18. The fees established for any Vice Admiralty Court shall, after the date fixed for them to come into operation, be the only fees which shall be taken by the officers and practitioners of the Court.

Taxation may be revised, &c. by the High Court of Admiralty.

19. Any person who shall feel himself aggrieved by the charges of any of the practitioners in any Vice Admiralty Court, or by the taxation thereof by the officers of the Court, may apply to the High Court of Admiralty of England to have the charges taxed, or the taxation thereof revised.

Registrar may administer oaths.

20. The registrar of any Vice Admiralty Court shall have power to administer oaths in relation to any matter depending in the Court; and any

Penalty for false swearing.

person who shall wilfully swear falsely in any proceeding before the registrar, or before any other person authorized to administer oaths in the Court, shall be deemed guilty of perjury, and shall be liable to all the penalties attaching to wilful and corrupt perjury.

Hearing of cross causes in respect of collisions.

21. If a cause of damage by collision be instituted in any Vice Admiralty Court, and the defendant institute a cross cause in respect of the same collision, the judge may, on application of either party, direct both causes to be heard at the same time and on the same evidence; and if the ship of the defendant in one of the causes has been arrested, or security given by him to answer judgment, but the ship of the defendant in the other cause cannot be arrested, and security has not been given to answer judgment therein, the Court may, if it think fit, suspend the proceedings in the former cause until security has been given to answer jndgment in the latter cause.

Appeal.

22. The appeal from a decree or order of a Vice Admiralty Court lies to Her Majesty in Council; but no appeal shall be allowed, save by permission of the judge, from any decree or order not having the force or effect of a definitive sentence or final order.

Appeal to be made within six months.

23. The time for appealing from any decree or order of a Vice Admiralty Court shall, notwithstanding any existing enactment to the contrary, be limited to six months from the date of the decree or order appealed from; and no appeal shall be allowed where the petition of appeal to Her Majesty shall not have been lodged in the registry of the High Court of Admiralty and of Appeals within that time, unless Her Majesty in Council shall, on the report and recommendation of the Judicial Committee of the Privy Council, be pleased to allow the appeal to be prosecuted, notwithstanding that the petition of appeal has not been lodged within the time prescribed.

Acts repealed. Saving rules, &c. established under 2 & 3 Will. 4. c. 51.

24. The Acts enumerated in the schedule hereto annexed marked B. are hereby repealed to the extent therein mentioned; but the repeal thereof shall not affect the validity of any rules, orders, regulations, or tables of fees heretofore established and now in force, in pursuance of the Act of the second and third William the Fourth, chapter fifty-one; but such rules, orders, regulations, and tables of fees shall continue in force until repealed or altered under the provisions of this Act.

Schedule (A.)

List of the existing Vice Admiralty Courts to which this Act applies.

Antigua.
Bahamas.
Barbadoes.
Bermuda.
British Columbia.
British Guiana.
British Honduras.
Cape of Good Hope.

SCHEDULE (A.)—*continued.*

Ceylon.	New South Wales.
Dominica.	New Zealand.
Falkland Islands.	Nova Scotia, otherwise Halifax.
Gambia River.	Prince Edward Island.
Gibraltar.	Queensland.
Gold Coast.	Saint Christopher.
Grenada.	Saint Helena.
Hong Kong.	Saint Lucia.
Jamaica.	Saint Vincent.
Labuan.	Sierra Leone.
Lagos.	South Australia.
Lower Canada, otherwise Quebec.	Tasmania, formerly called Van Diemen's Land.
Malta.	
Mauritius.	Tobago.
Montserrat.	Trinidad.
Natal.	Vancouver's Island.
Nevis.	Victoria.
New Brunswick.	Virgin Islands, otherwise Tortola.
Newfoundland.	Western Australia.

SCHEDULE (B.)

Acts and Parts of Acts repealed.

Reference to Act.	Title of Act.	Extent of repeal.
56 Geo. III. c. 82 .	An Act to render valid the judicial acts of surrogates of Vice Admiralty Courts abroad, during vacancies in office of judges of such Courts.	The whole Act, save as regards Her Majesty's possessions in India.
5 Geo. IV. c. 113 .	An Act to amend and consolidate the laws relating to the abolition of the slave trade.	Section 29, save as above.
2 & 3 Will. IV. c. 51 .	An Act to regulate the practice and the fees in the Vice Admiralty Courts abroad, and to obviate doubts as to their jurisdiction.	The whole Act, save as above.
6 & 7 Vict. c. 38 .	An Act to make further regulations for facilitating the hearing appeals and other matters by the Judicial Committee of the Privy Council.	Section 11, so far as it relates to appeals from Vice Admiralty Courts, save as above.
17 & 18 Vict. c. 37 .	An Act for establishing the validity of certain proceedings in Her Majesty's Court of Vice Admiralty in Mauritius.	The whole Act.

26 & 27 VICTORIA. A. D. 1863.

CHAPTER LVII.

An Act to consolidate and amend the Acts relating to the Payment of Regimental Debts, and the Distribution of the Effects of Officers and Soldiers in Case of Death, and to make like Provision for the Cases of Desertion and Insanity, and other Cases. [*21st July 1863.*]

WHEREAS it is expedient to consolidate and amend the provisions now in force relating to the payment of regimental debts, and the distribution of the effects of officers and soldiers dying on service; and those provisions having been found beneficial, it is also expedient to make like provision for the security and application of the effects of deserters and others, and of officers and soldiers becoming insane on service:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. THIS Act may be cited as The Regimental Debts Act, 1863.

Interpretation of terms.

2. IN this Act—

The term "officer" means (except where it is otherwise expressed) a commissioned officer of Her Majesty's Army, or of Her Majesty's Indian Army:

The term "soldier" means (except where it is otherwise expressed) a soldier of Her Majesty's Army, or a European soldier of Her Majesty's Indian Army, including a warrant and a non-commissioned officer:

The term "representation" includes probate, and letters of administration, with or without will annexed, and the corresponding documents or acts in use according to the law of Scotland, or other law in force in any place where this Act operates:

The term "representative" means any person taking out representation:

The term "the Secretary of State for War" means such one of Her Majesty's Principal Secretaries of State for the time being as Her Majesty thinks fit to intrust with the seals of the War Department:

The term "India" means the territories for the time being vested in Her Majesty under the Act of the year 1858, "for the better government of India":

21 & 22 Vict. c. 106.

The term "the Secretary of State for India in Council" means one of Her Majesty's Principal Secretaries of State acting with the Council of India under that Act:

The term "person" includes a corporation and any body of persons.

* * * * * * * * *

PART I.—DEATH ON SERVICE.

Preferential Charges.

What shall be deemed preferential charges on property.

4. WHERE an officer or soldier dies on service, the following classes of expenses and debts incurred and owing by him or on his account shall, for the purposes of this Act, be considered preferential charges on his personal property, and be payable thereout in preference to all other debts and liabilities, and, as among themselves, in the following order:—

(1) Expenses of last illness and funeral:

(2) Military debts, namely, sums due in respect of—

Quarters;

Mess, band, and other regimental accounts;

Military clothing, appointments and equipments, not exceeding a sum equal to six months' pay of the deceased, and having become due within eighteen months before his death;

including sums due to any agent or to any paymaster, quartermaster, or other officer, on any such account, or on account of any advance made for any such purpose:

To which shall be added, where the death occurs out of the United Kingdom,—

(3) Servants' wages, not exceeding two months' wages to each servant:

(4) Household expenses incurred within a month before the death or after the last issue of pay to the deceased, whichever is the shorter period.

Surplus only of personal estate to be deemed personal estate.

5. THE surplus only of the personal property of an officer or soldier dying on service, remaining over after payment of preferential charges, shall be considered personal estate of the deceased, with reference to the calculation of probate duty, or of any other tax or percentage, or for any of the purposes of administration or distribution.

Questions respecting amount, payment, &c. of

6. IF in any case a doubt or difference arises as to any particular expense or debt being a preferential charge or not,—or as to any alleged preferential charge having been in fact incurred, or being due, in the whole or in part, or

preferential charges to be decided by Secretary of State, or in India by military secretary to government of Presidency.

not,—or as to the priority among or payment of any preferential charges, where the property is insufficient to pay all in full, or where those of one class exceed the amount allowed for that class,—or otherwise in relation to any preferential charge or the payment thereof,—the decision of the Secretary of State for War, where the death occurs elsewhere than in India, and of the military secretary to the government of the Presidency in which the deceased was quartered, where the death occurs in India, or of such officer or person as the Secretary of State or military secretary respectively deputes by writing under his hand to act for him in this behalf, shall be final, and shall be binding on all persons for all purposes.

Collection and Disposal of Effects.

On death of officer or soldier on service, committee of officers to secure his effects.

7. IMMEDIATELY on the death of an officer or soldier on service, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases, herein-after called the committee of adjustment, shall secure all such of his effects as—

Where the death occurs in the United Kingdom, are in camp or quarters; and

Where the death occurs out of the United Kingdom, are within the station, colony, or command.

If preferential charges not paid, power to committee to sell and convert effects, and to get in credits, and, after payment of expenses and of preferential charges, to secure surplus.

8. PROVIDED, that if the representative of the deceased, or his widow (if any), or any of his next of kin, pays in full the preferential charges, the committee of adjustment shall not further interfere in relation to the property.

If such payment is not made, then, within one month after the death, the committee of adjustment may and shall, without any representation taken out, and as if they were the representatives of the deceased, and to the exclusion of all other authorities and persons whomsoever, sell or convert into money such parts of the effects of the deceased as do not consist of money,—and also, where the death occurs out of the United Kingdom, get in and give receipts (which shall be effectual discharges) for all or any of the credits forming part of the estate of the deceased, and being payable or recoverable in India or in the colony or possession in which the deceased was quartered (as the case may be), and, if they think fit, sue for and recover any of such credits,—and, after paying thereout the expenses attending the discharge of their duties, shall pay thereout the preferential charges, and secure the surplus of the effects, or effects and credits, as the case may be, remaining over after all such payments.

In India, power for committee to deliver over

9. WHERE the death occurs in India, the committee of adjustment may, in such cases, under such circumstances, and at such time or times, as may be prescribed by royal warrant, according to the circumstances of different cases,

deliver over the effects secured by them to the administrator general for the Presidency in which the deceased was quartered. effects to administrator general.

Disposal of Surplus.

10. THE committee of adjustment shall, according to the circumstances of the case, remit or lodge the surplus aforesaid to or in the hands of such paymaster or other officer or person, at such time or times, in such manner, and together with such accounts, vouchers, reports, and information, as may be prescribed by royal warrant. Remittance of surplus by committee.

11. WHERE the death occurs elsewhere than in India, or the death occurs in India, the deceased being (in the latter case) a soldier of Her Majesty's Army, then the paymaster or other officer or person aforesaid shall dispose of the surplus as follows :— Disposal of surplus where deaths occur in India or elsewhere.

(1) Where the amount exceeds one hundred pounds, he shall pay it over to the representative of the deceased, if present at head quarters, and if there is none, shall forthwith remit it to the Secretary of State for War :

(2) Where the amount does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out; but if representation is taken out, such paymaster or other officer or person shall pay the amount over to the representative, if present at head quarters :

(3) Where the amount does not exceed one hundred pounds, and representation is not taken out, then such paymaster or other officer or person shall dispose of the amount, or part thereof, (in such manner as may be prescribed by royal warrant for such cases,) for the benefit of the widow and of the children or other near relatives (if any) of the deceased, or of some of such persons, being present at head quarters; and if there are no such persons, or any part of the amount aforesaid is not so disposed of for their benefit, he shall forthwith remit the whole amount, or the part thereof not so disposed of, (as the case may be,) to the Secretary of State for War.

12. WHERE the death occurs in India, the deceased not being a soldier of Her Majesty's Army, the following provisions shall take effect :— Provision where death occurs in India, the deceased not being a soldier of Her Majesty's Army.

(1) The paymaster or other officer or person aforesaid shall, as soon as may be after receiving the surplus aforesaid, publish such notice (stating the amount of the surplus, and other particulars respecting the deceased and his property,) as may be prescribed by royal warrant, together with a notice stating that all claims by creditors against the property of the deceased are to be lodged with

such paymaster or other officer or person; who shall retain the surplus for two months after the first publication of such Gazette notice as aforesaid, and shall receive and record all claims lodged with him accordingly:

(2) If claims are so lodged, not exceeding in the whole such absolute amount, or such proportion of the surplus, as may be prescribed by royal warrant, according to the circumstances of different cases, then such paymaster or other officer or person shall, at the expiration of the said two months, proceed to discharge the demands of the claimants who have lodged claims with him, unless under the special circumstances of the case of the deceased it appears to him inexpedient or unjust to do so:

(3) In that case, or in case the claims lodged exceed in the whole the absolute amount or the proportion aforesaid, then such paymaster or other officer or person shall, without discharging those claims or any of them, transfer the surplus aforesaid to the administrator general for the Presidency:

(4) Where such paymaster or other officer or person does not so transfer the surplus, he shall dispose thereof, or of so much thereof as remains after the discharge of any claims, as follows:

Where the amount exceeds one hundred pounds, he shall pay it over to the representative of the deceased in India, if any;

Where the amount does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out in India; but if representation is taken out there, such paymaster or other officer or person shall pay the amount over to the representative in India;

Where the amount does not exceed one hundred pounds, and representation in India is not taken out, such paymaster or other officer or person shall dispose of the amount, or part thereof, in India, (in such manner as may be prescribed by royal warrant for such cases,) for the benefit of the widow and of the children or other near relatives (if any) of the deceased, or of some of such persons, being in India:

(5) Subject to the foregoing provisions, such paymaster or other officer or person shall, at the expiration of such time, not exceeding in any case six months, as may be prescribed by royal warrant, remit the surplus, or so much thereof as remains in his hands after discharging any claims, from India to England, as follows,—

In the cases of officers of Her Majesty's Army constituting

the staff corps of the three Presidencies, and in the cases of officers and European soldiers of Her Majesty's Indian Army, to the Secretary of State for India in Council,—

In other cases, to the Secretary of State for War.

Disposal of Residue by Secretary of State.

On receipt of surplus at War or India Office, account to be made up, and notice to be published in London Gazette, &c. as to amount to credit of deceased, and other particulars.

13. THE Secretary of State for War, or the Secretary of State for India in Council, as the case may be, on receiving any such surplus or part of a surplus as is herein-before directed to be remitted, shall cause an account to be made up, as soon as may be, of the total amount to the credit of the deceased, including the amount of the surplus or part of a surplus so remitted, together with all arrears of pay, batta, grants, and other allowances in the nature thereof, and thereupon shall cause to be published, as soon as conveniently may be, in the London Gazette, and also in any newspaper or otherwise as may seem fit, a notice stating the total amount to the credit of the deceased as aforesaid, herein-after called the residue, and such other particulars respecting the deceased and his property as may seem fit, together with a notice stating the mode in which any application respecting the residue is to be made to the Secretary of State for War, or to the Secretary of State for India in Council, as the case may be.

Residue exceeding 100*l.* to be paid to representative of deceased.

14. WHERE the residue exceeds one hundred pounds, the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, shall dispose of the residue by paying it over to the representative of the deceased.

Provision where residue does not exceed 100*l.*

15. WHERE the residue does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out, but in any case the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, may, if it seems fit, require representation to be taken out; and if, on that requisition or otherwise, representation is taken out, then he shall dispose of the residue by paying it over to the representative.

Disposal of residue where it does not exceed 100*l.*, and representation is not taken out.

16. WHERE the residue does not exceed one hundred pounds and representation is not taken out, then, after the expiration, from the first publication of the required notice in the London Gazette, of three months in the case of an officer, and of one month in the case of a soldier, the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, shall dispose of the residue as follows:—

(1) He shall, if he thinks fit, pay the residue over to any person showing herself or himself, to the satisfaction of the Secretary of State for War, or the Secretary of State for India in Council, as the case

may be, to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to take out representation to the deceased,—to the end that the residue may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be so applied accordingly (for which application the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, may require such security as seems fit):

(2) Or else, where the deceased leaves any child or near relative him surviving, the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, shall retain the residue in his hands on behalf of such child or near relative, and shall invest the residue, or any part thereof, in such manner as may be prescribed by royal warrant, and shall apply the sums invested, and the income thereof, or any part thereof respectively, from time to time, for the maintenance, education, or advancement, or otherwise for the benefit, of such child or near relative, in such manner as may seem fit, subject to such regulations as may be laid down by royal warrant.

Debts.

Provision in last-mentioned case for payment of debts out of residue.

17. NOTWITHSTANDING anything herein-before contained, where the residue does not exceed one hundred pounds, and representation to the deceased is not taken out, the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, shall, before disposing of the residue or any part thereof in manner aforesaid, or after so disposing of the residue or any part thereof, if and so far as the disposition thereof is capable of revocation,—apply the residue, or so much as may be requisite, in or towards payment of any debt of the deceased of which he has notice, subject to the following conditions:

First,—That the debt accrued due within three years before the death:

Second,—That payment of it is claimed within two years after the death:

Third,—That the claimant proves the debt to the satisfaction of the Secretary of State for War, or of the Secretary of State for India in Council, as the case may be.

Any person claiming to be a creditor of the deceased shall not be entitled to obtain payment of his debt out of any money that may, under this Act, be in the hands of the Secretary of State for War, or of the Secretary of State for India in Council, by any means or proceedings whatever except by means of a claim lodged with such Secretary of State, and proceedings thereon, under and according to this Act.

Nothing in the present section shall prejudicially affect the claim of any creditor in respect of a debt incurred before the commencement of this part of this Act.

Undisposed-of Residues.

Successive annual notices.

18. If in any case the residue or any part thereof remains, for one year after the first publication of the required notice in the London Gazette, in the hands of the Secretary of State for War, or of the Secretary of State for India in Council, as the case may be, undisposed of or unappropriated, then as soon as conveniently may be after the end of that year the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, shall cause to be published in the London Gazette a notice similar to the original required notice, mutatis mutandis, and so for six successive years from the publication of the original notice; and if in any case the residue, or any part thereof, remains in the hands of the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, undisposed of or unappropriated for six months after the publication of the last of such required notices in the London Gazette, then at the expiration of the said six months he shall apply the same, together with any income or accumulations of income accrued therefrom, in such manner in or towards the creation or maintenance of such compassionate or other fund for the benefit of widows and children or other near relatives of soldiers dying on service, as may be prescribed by royal warrant.

Residues undisposed of for 6 years to be applied towards some compassionate fund, &c.

Provided, that the application under the present section of any residue, or part of a residue, undisposed of or unappropriated as aforesaid, shall not be deemed to bar any claim of any person to the same, or any part thereof, that may be established at any time after such application.

Medals and Decorations.

Disposal of medals and decorations.

19. Medals and decorations belonging to an officer or soldier dying on service shall not be considered to be comprised in the personal estate of the deceased with reference to the claims of creditors or for any of the purposes of administration under this Act or otherwise; and, notwithstanding anything in this or any other Act contained, the same, when secured by the committee of adjustment, shall be held and disposed of according to regulations laid down by royal warrant.

Exception as to Regimental Paymasters.

Special provision for case of death of regimental paymaster.

20. The case of a regimental paymaster dying on service shall, notwithstanding anything herein-before contained, be provided for as follows:

(1) That case shall be deemed wholly excepted out of the foregoing

provisions of this Act, save so far as they define and give preference to and regulate the payment of and provide for decisions respecting preferential charges, and as they relate to the duties and powers of the committee of adjustment, and to medals and decorations:

(2) The duties and powers of the committee of adjustment in relation to the property shall, nevertheless, in the case of a regimental paymaster, be deemed to arise in full, immediately and unconditionally on the death, and to continue notwithstanding the payment of the preferential charges by any person:

(3) Money in the possession or under the control of a regimental paymaster at his death shall not be considered to be comprised in his effects for the purposes of this Act:

(4) The surplus in the hands of the committee of adjustment shall, in the case of a regimental paymaster, be dealt with by them as may be prescribed by royal warrant, and not according to the foregoing provisions of this Act.

Administrators General and other Official Administrators.

Restriction on interposition of official administrators.

21. An administrator general for a Presidency in India, or a registrar of any court in India or in any of Her Majesty's colonies or possessions abroad, or any other official administrator, notwithstanding any law regulating his office independently of this Act, shall not interpose in any manner in relation to any property of an officer or soldier dying on service, except in the cases expressly provided for in this Act, or unless expressly required to do so by a committee of adjustment, or some other officers or persons, acting under this Act.

Duties of official administrators.

Where, under this Act, any property comes to the hands of any such administrator general, registrar, or other official administrator, he shall administer the same in accordance with the provisions of this Act relating to preferential charges, and the other provisions of this Act, and, subject thereto, according to the law regulating his office independently of this Act.

Where any money coming under this Act to the hands of any such administrator general remains in his hands after discharge of all debts and liabilities, he shall remit the same to the Secretary of State for India in Council at such time and in such manner as he directs, to be retained or to be paid over to the Secretary of State for War, as the case may require, and to be disposed of, according to the provisions of this Act, as the residue or part of the residue of the property of the deceased.

An administrator general shall not be entitled to take, and it shall not be lawful for him to take, a per-centage on the property of an officer or soldier

dying on service, exceeding three per centum on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be.

Miscellaneous.

Money remitted not to be assets, &c.

22. ANY property of an officer or soldier dying on service coming under this Act to the hands of any paymaster or other officer or person, shall not, by reason of so coming, be deemed assets or effects at the place in which that paymaster or other officer or person is stationed or resides; and it shall not be necessary by reason thereof that representation should be taken out in respect of that property for that place.

Where, under this Act, any such property is to be paid or delivered over to the representative of a deceased officer or soldier or other person entitled to receive the same,—

if such payment or delivery is to be made in India, then the military secretary to the government of the Presidency in which the deceased was quartered,—

and if such payment is to be made elsewhere than in India, then the Secretary of State for War, or the Secretary of State for India in Council, as the case may be,—

may order that such property be transmitted to any other place where the same can be more conveniently paid or delivered over as aforesaid; and the obedience to any such order by any paymaster or other officer or person in whose hands such property is, shall be a sufficient discharge to him; and he shall not be liable in any manner by reason of such property having been in his hands and having been transmitted under any such order.

Deduction of arrears of subscription to Military and Orphan Funds.

23. NOTHING in this Act shall be deemed to prevent the Secretary of State for India in Council, on the death of an officer of Her Majesty's Indian Army, from deducting in the pay office from any arrear of pay due to the deceased the amount of any arrears of subscription due by the deceased to the Military and Orphan Funds, or either of them.

Exemptions from duty.

24. THE personal estate of an officer or soldier dying on service in India, not exceeding one hundred pounds after payment of preferential charges, and administered and disposed of under this Act without representation being taken out, shall not be liable to the payment of any duty either in India or in the United Kingdom; but this provision shall not affect any exemption from duty existing independently hereof.

Creditor not entitled to take out administration, &c.

25. A CREDITOR, as such, shall not be deemed a person entitled to take out representation to the deceased within the meaning of this part of this Act;

nor shall a creditor taking out representation as such be entitled by virtue of such representation to claim from the Secretary of State for War, or the Secretary of State for India in Council, any part of the property of the deceased.

Deposit in Court of Probate, &c. of original wills and declarations of intestacy, &c.

26. WHERE any original will of an officer or soldier dying on service comes to the hands of the Secretary of State for War, or of the Secretary of State for India in Council, and representation under the same is not taken out, then the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, may cause the same to be deposited as follows:

Where the domicil of the testator was in England, or in India, or in any of Her Majesty's colonies or possessions abroad, or in any foreign country, then in the place for the time being appointed in London or Middlesex for the deposit of original wills brought into the Court of Probate:

Where the domicil of the testator was in Ireland, then in the place for the time being appointed in Dublin for the deposit of original wills brought into the Court of Probate:

Where the domicil of the testator was in Scotland, then in the office of the commissary clerk of the Commissary Court of the county of Edinburgh.

Where an officer or soldier dies on service intestate, and under this Act any residue of his property comes to the hands of the Secretary of State for War, or of the Secretary of State for India in Council, for disposal, and representation to the deceased is not taken out, then the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, may, if it seems fit, cause a declaration of the intestacy of such officer or soldier to be deposited in the place or office where the original will of such officer or soldier (if any) would be deposited as aforesaid.

In every such case the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, may cause to be deposited together with such original will or declaration of intestacy an inventory showing the personal property of the deceased, and the application thereof, as far as the same may be known.

Where the original will of any officer or soldier, who has before the commencement of this part of this Act died on service, is in the hands of the Secretary of State for War, or of the Secretary of State for India in Council, he may, if it seems fit, at any time cause the same to be deposited in the place or office where the original will of such officer or soldier would be deposited as aforesaid if he had died after the commencement of this part of this Act.

Every such original will, declaration of intestacy, and inventory shall be preserved and dealt with, and may be inspected, subject and according to any general or other rules or orders for regulating such preservation, dealing, and inspection, and for fixing any fees to be payable in respect thereof, as may be from time to time made in that behalf by the court, judge, or other authority empowered to make general or other rules or orders for like purposes in relation to other documents deposited in the same place or office.

Part II.—Desertion and other Cases.

On desertion, committee of officers to secure effects, and pay expenses.

27. In every case of desertion, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases herein-after called the committee of adjustment, shall immediately secure all such of the deserter's effects as—

Where the desertion occurs in the United Kingdom, are in camp or quarters; and

Where the desertion occurs out of the United Kingdom, are within the station, colony, or command;

and shall forthwith make an inventory thereof, and shall, within three months after the desertion, sell or convert into money such parts of the deserter's effects as do not consist of money, and thereout pay the expenses attending the execution of the provisions of the present section.

Application of surplus.

28. The surplus remaining after such payment shall be liable to be applied in or towards payment of any such expenses and debts incurred and owing by the deserter as would, under Part I. of this Act, be preferential charges on his personal property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, mutatis mutandis.

The committee of adjustment shall apply the same accordingly, and then shall dispose of any property remaining in their hands according to regulations laid down by royal warrant.

Absence without leave.

29. For the purposes of this part of this Act, absence without leave for twenty-one days shall be deemed included in the term desertion.

Act to apply to apprentices and felons.

30. The provisions of this part of this Act shall apply, as nearly as may be, mutatis mutandis, in the case of a soldier delivered up as an apprentice, or convicted of felony.

Part III.—Insanity.

In case of

31. Where an officer or soldier is removed, put on half pay, or discharged,

Insanity, committee of officers to secure effects.

on the ground of insanity, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases, herein-after called the committee of adjustment, shall immediately secure all such of his effects as—

Where the insanity occurs during service in the United Kingdom, are in camp or quarters; and

Where the insanity occurs during service out of the United Kingdom, are within the station, colony, or command.

Effects to be applied in payment of such expenses, &c. as would, in case of death, be preferential charges.

32. THE effects of such an officer or soldier shall be liable to be applied in or towards payment of any such expenses and debts incurred and owing by him as would, under Part I. of this Act, be preferential charges on his personal property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, mutatis mutandis.

Disposal of residue after payment of such expenses, &c.

33. IF any person who would, if such officer or soldier were dead, be entitled to take out representation to him (otherwise than as a creditor), or his wife (if any), or any near relative, pays in full the expenses and debts aforesaid, the committee of adjustment shall not further interfere in relation to the property.

If such payment is not made, then, within one month after the removal, putting on half pay or discharge is known at the quarters where the effects are, the committee of adjustment may and shall sell or convert into money such parts of the effects as do not consist of money, and, after paying thereout the expenses attending the discharge of their duties, shall pay thereout the expenses and debts aforesaid, and shall dispose of any property then remaining in their hands as may be prescribed by royal warrant, to the end that the same may be applied for the benefit of the officer or soldier to whom it belongs.

Power to War or India Office to apply officer's half pay, in case of insanity, for his benefit.

34. WHERE an officer is put on half pay on the ground of insanity, the Secretary of State for War, or the Secretary of State for India in Council, as the case may be, may, if it seems fit, pay to the person charged with the care and maintenance of such officer all or any part of his half pay, to be applied for his care and maintenance.

PART IV.—GENERAL PROVISIONS.

Validity of payments, sales, &c. under this Act.

35. EVERY payment or application of money, and every sale or other disposition of property, made by the Secretary of State for War, or by the Secretary of State for India in Council, or by any committee of adjustment, or by any paymaster or other officer or person, in pursuance of this Act or of any royal warrant for carrying this Act into effect, shall be good and valid as

against all persons whomsoever; and every such Secretary of State, and every officer belonging to any such committee, and every such paymaster, officer, or person as aforesaid, shall be, by virtue of this Act, absolutely discharged from all liability in respect of the money or other property so paid, applied, or disposed of. Indemnity to persons acting under it.

36. HER Majesty may from time to time, by warrant under the Royal Sign Manual, do all such things as are herein-before directed or authorized to be done by royal warrant, and also prescribe such regulations as may seem fit, for the better execution of any of the purposes of this Act. Royal warrants under this Act.

Every royal warrant made under this Act shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament is then sitting, and if not, then within fourteen days after the commencement of the next sitting of Parliament.

37. THIS Act shall, with respect to the making of any royal warrant under it, take effect from its passing, and in all other respects shall take effect from the time appointed for its commencement in the royal warrant first made under it. Commencement of Act.

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26 & 27 VICTORIA. A. D. 1863.

CHAPTER LXXVI.

An Act to determine the Time at which Letters Patent shall take Effect in the Colonies. [*28th July 1863.*]

WHEREAS Her Majesty hath from time to time caused to be made under the Great Seal of the United Kingdom of Great Britain and Ireland divers letters patent intended to take effect within Her Majesty's colonies and possessions beyond the seas: And whereas doubts are entertained respecting the period at which such letters patent have taken or may hereafter take effect within such colonies and possessions; and it is expedient that such doubts should be removed: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. No such letters patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such colony or possession as aforesaid until the same were or shall be publicly made known or acted upon therein: Provided, that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such letters patent shall be as valid and effectual as if the same letters patent had taken effect at the date of the making thereof. Existing letters patent not to take effect in colonies till published or acted on. Acts done under such letters patent valid.

Future letters patent not to take effect in colony till publication.

2. No such letters patent hereafter to be made shall (unless otherwise provided therein or by other lawful authority) take effect in any such colony or possession until the making of the same shall have been signified therein by proclamation or other public notice.

Appointments by letters patent to be void unless published within nine or six months.

3. ANY such letters patent by which any person may be hereafter appointed to any office or employment within any of such colonies or possessions shall (unless otherwise provided therein or by other lawful authority) become null and void in respect of such colony, unless the same shall be so signified as aforesaid within the following period; that is to say, within nine calendar months in case such colony or possession shall be to the eastward of Bengal in the East Indies, or to the west of Cape Horn in South America, or in any other case within six months after the making thereof.

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Commencement of Act.

5. THIS Act shall take effect in each of Her Majesty's colonies and possessions so soon as the same shall be proclaimed therein by the officer administering the government thereof.

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26 & 27 VICTORIA. A. D. 1863.

CHAPTER CXXI.

An Act to establish the Validity of Acts performed in Her Majesty's Possessions abroad by certain Clergymen ordained in Foreign Parts, and to extend the Powers of Colonial Legislatures with respect to such Clergymen.

[*28th July 1863.*]

WHEREAS by the third section of an Act passed in the twenty-sixth year of His late Majesty King George the Third, chapter eighty-four, intituled "An Act to empower the Archbishop of Canterbury or the Archbishop of York for the time being to consecrate to the office of a bishop persons being subjects or citizens of countries out of His Majesty's dominions," it was enacted that no person or persons admitted to the order of deacon or priest by any bishop or bishops so consecrated, or by the successor or successors of any bishop or bishops so consecrated, should be thereby enabled to exercise his or their respective office or offices within His Majesty's dominions: And whereas by an Act passed by the Legislature of Barbadoes in the nineteenth and twentieth years of Her Majesty Queen Victoria, chapter twenty, intituled "An Act to enable the Reverend Joseph Shepherd Mayers to exercise his office as a clergyman within this island," it was enacted, that it should be lawful for the said Reverend Joseph Shepherd Mayers to exercise the office of priest, and the said Reverend Joseph Shepherd Mayers hath from that time exercised the said office in the

26 Geo. 3. c. 84.

19 & 20 Vict. c. 20 (Barbadoes).

island of Barbadoes: And whereas it is apprehended that divers persons having been ordained by such bishop or bishops as aforesaid or their successors have at times exercised their respective offices in British colonies: And whereas doubts are entertained respecting the validity of the aforesaid Act passed by the legislature of Barbadoes, and of the marriages solemnized and other acts performed by the said Reverend Joseph Shepherd Mayers under authority of the said Act, or by other persons so ordained as aforesaid, and it is advisable to remove such doubts, and to define the power of colonial legislatures in this respect: Be it hereby enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Colonial legislatures may authorize exercise of clerical functions by persons ordained by bishops consecrated under 26 Geo. 3. c. 84.

1. It shall be lawful for the legislature of any of Her Majesty's possessions abroad, by any law or laws to be by them passed, to authorize any persons admitted to the order of priest or deacon by any of such bishops as are mentioned in the first-recited Act to exercise their respective offices in such possession, anything in the aforesaid Act of Parliament to the contrary notwithstanding, and all laws heretofore passed by any such legislature for that purpose shall be and the same are hereby declared to be valid and effectual to all intents and purposes.

Acts heretofore performed by such persons to be valid.

2. All acts heretofore performed in any British colony by any person having been admitted to the office of priest or deacon by any of such bishops as aforesaid or of their successors shall be as valid and effectual at law for all purposes whatever as if such person had been so admitted by a bishop or bishops of the United Church of Great Britain and Ireland.

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27 & 28 VICTORIA. A. D. 1864.

Chapter XXV.

An Act for regulating Naval Prize of War.

[*23rd June 1864.*]

Whereas it is expedient to enact permanently, with amendments, such provisions concerning naval prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a war:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as The Naval Prize Act, 1864.

Interpretation of terms.

2. In this Act—

The term "the Lords of the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral:

The term "the High Court of Admiralty" means the High Court of Admiralty of England:

The term "any of Her Majesty's ships of war" includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service:

The term "officers and crew" includes flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's ships of war:

The term "ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat:

The term "ship papers" includes all books, passes, sea briefs, charter parties, bills of landing, cockets, letters, and other documents and writings delivered up or found on board a captured ship:

The term "goods" includes all such things as are by the course of Admiralty and law of nations the subject of adjudication as prize (other than ships).

1.—Prize Courts.

High Court of Admiralty and other courts to be prize courts for purposes of Act.

3. The High Court of Admiralty, and every court of Admiralty or of Vice-Admiralty, or other court exercising Admiralty jurisdiction in Her Majesty's dominions, for the time being authorized to take cognizance of and judicially proceed in matters of prize, shall be a prize court within the meaning of this Act.

Every such court, other than the High Court of Admiralty, is comprised in the term "Vice-Admiralty prize court," when hereafter used in this Act.

High Court of Admiralty.

Jurisdiction of High Court of Admiralty.

4. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a prize court.

The High Court of Admiralty as a prize court shall have power to enforce any order or decree of a Vice-Admiralty prize court, and any order or decree of the Judicial Committee of the Privy Council in a prize appeal.

Appeal; Judicial Committee.

Appeal to

5. An appeal shall lie to Her Majesty in Council from any order or decree

of a prize court, as of right in case of a final decree, and in other cases with the leave of the court making the order or decree. Queen in Council, in what cases.

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by Order in Council, and in the absence of any such Order, or so far as any such Order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting maritime causes of appeal.

6. The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any court of Admiralty jurisdiction, and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of Appeal in prize causes. Jurisdiction of Judicial Committee in prize appeals.

7. All processes and documents required for the purposes of any such appeal shall be transmitted to and shall remain in the custody of the registrar of Her Majesty in prize appeals. Custody of processes, papers, &c.

8. In every such appeal the usual inhibition shall be extracted from the registry of Her Majesty in prize appeals within three months after the date of the order or decree appealed from, if the appeal be from the High Court of Admiralty, and within six months after that date, if it be from a Vice-Admiralty prize court. Limit of time for appeal.

The Judicial Committee may, nevertheless, on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid.

Vice-Admiralty Prize Courts.

9. Every Vice-Admiralty prize court shall enforce within its jurisdiction all orders and decrees of the Judicial Committee in prize appeals, and of the High Court of Admiralty in prize causes. Enforcement of orders of Judicial Committee and High Court.

10. Her Majesty in Council may grant to the judge of any Vice-Admiralty prize court a salary not exceeding five hundred pounds a year, payable out of money provided by Parliament, subject to such regulations as seem meet. Salaries of judges of Vice-Admiralty prize courts.

A judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of prize business transacted in his court.

An account of all such fees shall be kept by the registrar of the court, and the amount thereof shall be carried to and form part of the Consolidated Fund of the United Kingdom. Account and application of fees.

11. In accordance, as far as circumstances admit, with the principles and Retiring

pensions of judges, as in 22 Vict. c. 26.

regulations laid down in The Superannuation Act, 1859, Her Majesty in Council may grant to the judge of any Vice-Admiralty prize court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament.

Returns from Vice-Admiralty prize courts.

12. THE registrar of every Vice-Admiralty prize court shall, on the first day of January and first day of July in every year, make out a return (in such form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the court since the last half-yearly return, and shall with all convenient speed send the same to the registrar of the High Court of Admiralty, who shall keep the same in the registry of that court, and who shall, as soon as conveniently may be, send a copy of the returns of each half year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament.

General.

General orders for prize courts.

13. THE Judicial Committee of the Privy Council, with the judge of the High Court of Admiralty, may from time to time frame general orders for regulating (subject to the provisions of this Act) the procedure and practice of prize courts, and the duties and conduct of the officers thereof and of the practitioners therein, and for regulating the fees to be taken by the officers of the courts, and the costs, charges, and expenses to be allowed to the practitioners therein.

Any such general orders shall have full effect, if and when approved by Her Majesty in Council, but not sooner or otherwise.

Every Order in Council made under this section shall be laid before both Houses of Parliament.

Every such Order in Council shall be kept exhibited in a conspicuous place in each court to which it relates.

Prohibition of officer of prize court acting as proctor, &c. in prize causes.

14. IT shall not be lawful for any registrar, marshal, or other officer of any prize court, or for the registrar of Her Majesty in prize appeals, directly or indirectly to act or be in any manner concerned as advocate, proctor, solicitor, or agent, or otherwise, in any prize cause or appeal, on pain of dismissal or suspension from office, by order of the court or of the Judicial Committee (as the case may require).

Prohibition of proctors being concerned for adverse parties in a cause.

15. IT shall not be lawful for any proctor or solicitor, or person practising as a proctor or solicitor, being employed by a party in a prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in prize matters, by order of the court or of the Judicial Committee (as the case may require).

II.—Procedure in Prize Causes.

Proceedings by Captors.

Custody of ships taken as prize.

16. Every ship taken as prize, and brought into port within the jurisdiction of a prize court, shall forthwith, and without bulk broken, be delivered up to the marshal of the court.

If there is no such marshal, then the ship shall be in like manner delivered up to the principal officer of customs at the port.

The ship shall remain in the custody of the marshal, or of such officer, subject to the orders of the court.

17. The captors shall, with all practicable speed after the ship is brought into port, bring the ship papers into the registry of the court.

Bringing in of ship papers.

The officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, and saw the ship papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the court for the absence or altered condition of the ship papers or any of them.

Where no ship papers are delivered up or found on board the captured ship, the officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, shall make oath to that effect.

Issue of monition.

18. As soon as the affidavit as to ship papers is filed, a monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured ship should not be condemned.

Examinations on standing interrogatories.

19. The captors shall, with all practicable speed after the captured ship is brought into port, bring three or four of the principal persons belonging to the captured ship before the judge of the court, or some person authorized in this behalf, by whom they shall be examined on oath on the standing interrogatories.

The preparatory examinations on the standing interrogatories shall, if possible, be concluded within five days from the commencement thereof.

Adjudication by court.

20. After the return of the monition, the court shall, on production of the preparatory examinations and ship papers, proceed with all convenient speed either to condemn or to release the captured ship.

Further proof.

21. Where, on production of the preparatory examinations and ship papers, it appears to the court doubtful whether the captured ship is good prize or not, the court may direct further proof to be adduced, either by affidavit or by examination of witnesses, with or without pleadings, or by

production of further documents; and on such further proof being adduced the court shall with all convenient speed proceed to adjudication.

Custody, &c. of ships of war.

22. THE foregoing provisions, as far as they relate to the custody of the ship, and to examination on the standing interrogatories, shall not apply to ships of war taken as prize.

Claim.

Entry of aim.

23. AT any time before final decree made in the cause, any person claiming an interest in the ship may enter in the registry of the court a claim, verified on oath.

Security for costs.

Within five days after entering the claim, the claimant shall give security for costs in the sum of sixty pounds; but the court shall have power to enlarge the time for giving security, or to direct security to be given in a larger sum, if the circumstances appear to require it.

Appraisement.

Power to court to direct appraisement.

24. THE court may, if it thinks fit, at any time direct that the captured ship be appraised.

Every appraisement shall be made by competent persons, sworn to make the same according to the best of their skill and knowledge.

Delivery on Bail.

Power to court to direct delivery to claimant on bail.

25. AFTER appraisement, the court may, if it thinks fit, direct that the captured ship be delivered up to the claimant, on his giving security to the satisfaction of the court to pay to the captors the appraised value thereof in case of condemnation.

Sale.

Power to court to order sale.

26. THE court may at any time, if it thinks fit, on account of the condition of the captured ship, or on the application of a claimant, order that the captured ship be appraised as aforesaid (if not already appraised), and be sold.

Sale on condemnation.

27. ON or after condemnation the court may, if it thinks fit, order that the ship be appraised as aforesaid (if not already appraised), and be sold.

Sales, how to be made.

28. EVERY sale shall be made by or under the superintendence of the marshal of the court, or of the officer having the custody of the captured ship.

Payment of proceeds of sale, or appraised value of ship delivered to claimant on bail, to Pay-

29. THE proceeds of any sale, made either before or after condemnation, and after condemnation the appraised value of the captured ship, in case she has been delivered up to a claimant on bail, shall be paid under an order of the court either into the Bank of England to the credit of Her Majesty's Paymaster General, or into the hands of an official accountant (belonging to the

commissariat or some other department) appointed for this purpose by the Commissioners of Her Majesty's Treasury or by the Lords of the Admiralty, subject in either case to such regulations as may from time to time be made, by Order in Council, as to the custody and disposal of money so paid.

master General or official accountant, subject to regulations by Order in Council as to custody and disposal.

Small armed Ships.

30. The captors may include in one adjudication any number, not exceeding six, of armed ships not exceeding one hundred tons each, taken within three months next before institution of proceedings.

Several small ships may be included in one adjudication.

Goods.

31. The foregoing provisions relating to ships shall extend and apply, mutatis mutandis, to goods taken as prize on board ship; and the court may direct such goods to be unladen, inventoried, and warehoused.

Application of foregoing provisions to prize goods.

Monition to Captors to proceed.

32. If the captors fail to institute or to prosecute with effect proceedings for adjudication, a monition shall, on the application of a claimant, issue against the captors, returnable within six days from the service thereof, citing them to appear and proceed to adjudication; and on the return thereof the court shall either forthwith proceed to adjudication, or direct further proof to be adduced as aforesaid, and then proceed to adjudication.

Power to court to issue monition to captors to proceed to adjudication.

Claim on Appeal.

33. Where any person, not an original party in the cause, intervenes on appeal, he shall enter a claim, verified on oath, and shall give security for costs.

Person intervening on appeal to enter claim, and give security for costs.

III.—Special Cases of Capture.

Land Expeditions.

34. Where, in an expedition of any of Her Majesty's Naval or Naval and Military Forces against a fortress or possession on land, goods belonging to the State of the enemy or to a public trading company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a prize court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of prize.

Jurisdiction of prize court in case of capture in land expedition.

Conjunct Capture with Ally.

35. Where any ship or goods is or are taken by any of Her Majesty's

Jurisdiction of

prize court in case of prize taken in expedition with ally.

Naval or Naval and Military Forces while acting in conjunction with any forces of any of Her Majesty's allies, a prize court shall have jurisdiction as to the same as in case of prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally.

Joint Capture.

Restrictions on petitions by asserted joint captors.

36. BEFORE condemnation, a petition on behalf of asserted joint captors shall not (except by special leave of the court) be admitted, unless and until they give security to the satisfaction of the court to contribute to the actual captors a just proportion of any costs, charges, or expenses or damages that may be incurred by or awarded against the actual captors on account of the capture and detention of the prize.

After condemnation, such a petition shall not (except by special leave of the court) be admitted, unless and until the asserted joint captors pay to the actual captors a just proportion of the costs, charges, and expenses incurred by the actual captors in the case, and give such security as aforesaid, and show sufficient cause to the court why their petition was not presented before condemnation.

Provided, that nothing in the present section shall extend to the asserted interest of a flag officer claiming to share by virtue of his flag.

Offences against Law of Prize.

In case of offence by captors, prize may be reserved for crown.

37. A PRIZE court, on proof of any offence against the law of nations, or against this Act, or any Act relating to naval discipline, or against any Order in Council or royal proclamation, or of any breach of Her Majesty's instructions relating to prize, or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as prize, or in relation to any person on board any such ship, may, on condemnation, reserve the prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors.

Pre-emption.

Purchase by Admiralty for public service of stores on board foreign ships carrying stores to an enemy, and

38. WHERE a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to the Lords of the Admiralty expedient without the condemnation thereof in

a prize court, in that case the Lords of the Admiralty may purchase, on the account or for the service of Her Majesty, all or any of the stores on board the ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

brought within a port of the United Kingdom.

Capture by Ship other than a Ship of War.

39. ANY ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in her office of Admiralty.

Prizes taken by ships other than ships of war to be droits of Admiralty.

IV.—PRIZE SALVAGE.

40. WHERE any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a prize court to the owner, on his paying as prize salvage one eighth part of the value of the prize, to be decreed and ascertained by the court, or such sum, not exceeding one eighth part of the estimated value of the prize, as may be agreed on between the owner and the re-captors, and approved by order of the court: Provided, that where the re-capture is made under circumstances of special difficulty or danger, the prize court may, if it thinks fit, award to the re-captors as prize salvage a larger part than one eighth part, but not exceeding in any case one fourth part, of the value of the prize.

Salvage to re-captors of British ship or goods from enemy.

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize.

41. WHERE a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is retaken from the enemy by any of Her Majesty's ships of war, she may, with the consent of the re-captors, prosecute her voyage, and it shall not be necessary for the re-captors to proceed to adjudication till her return to a port of the United Kingdom.

Permission to re-captured ship to proceed on voyage, and postponement of adjudication.

The master or owner, or his agent, may, with the consent of the re-captors, unload and dispose of the goods on board the ship before adjudication.

In case the ship does not, within six months, return to a port of the United Kingdom, the re-captors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the court may thereupon award prize salvage as aforesaid to the re-captors, and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.

Proceedings in case return of ship is delayed.

V.—Prize Bounty.

Prize bounty to officers and crew present at engagement with an enemy, in case of capture or destruction of enemy's ship.

42. If, in relation to any war, Her Majesty is pleased to declare, by proclamation or Order in Council, her intention to grant prize bounty to the officers and crews of her ships of war, then such of the officers and crew of any of Her Majesty's ships of war as are actually present at the taking or destroying of any armed ship of any of Her Majesty's enemies shall be entitled to have distributed among them as prize bounty a sum calculated at the rate of five pounds for each person on board the enemy's ship at the beginning of the engagement.

Ascertainment of amount of prize bounty by decree of prize court, subject to appeal.

43. The number of the persons so on board the enemy's ship shall be proved in a prize court, either by the examinations on oath of the survivors of them, or of any three or more of the survivors, or, if there is no survivor, by the papers of the enemy's ship, or by the examinations on oath of three or more of the officers and crew of Her Majesty's ship, or by such other evidence as may seem to the court sufficient in the circumstances.

The court shall make a decree declaring the title of the officers and crew of Her Majesty's ship to the prize bounty, and stating the amount thereof.

The decree shall be subject to appeal as other decrees of the court.

Payment of prize bounty awarded out of money provided by Parliament.

44. On production of an official copy of the decree the Commissioners of Her Majesty's Treasury shall, out of money provided by Parliament, pay the amount of prize bounty decreed, in such manner as any Order in Council may from time to time direct.

VI.—Miscellaneous Provisions.

Ransom.

Power for regulating ransom by Order in Council.

45. Her Majesty in Council may from time to time, in relation to any war, make such Orders as may seem expedient, according to circumstances, for prohibiting or allowing, wholly or in certain cases, or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects, and taken as prize by any of Her Majesty's enemies.

Jurisdiction of High Court of Admiralty.

Any contract or agreement entered into, and any bill, bond, or other security given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a prize court (subject to appeal to the Judicial Committee of the Privy Council), and if entered into or given in contravention of any such Order in Council shall be deemed to have been entered into or given for an illegal consideration.

If any person ransoms or enters into any contract or agreement for ransoming any ship or goods in contravention of any such Order in Council, he shall for every such offence be liable to be proceeded against in the High Court of Admiralty, at the suit of Her Majesty in her office of Admiralty, and on conviction to be fined, in the discretion of the court, any sum not exceeding five hundred pounds. Ransoming in contravention of Order in Council.

Convoy.

46. If the master or other person having the command of any ship of any of Her Majesty's subjects under the convoy of any of Her Majesty's ships of war wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty, at the suit of Her Majesty in her office of Admiralty, and upon conviction to be fined, in the discretion of the court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time, not exceeding one year, as the court may adjudge. Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy.

Customs Duties and Regulations.

47. All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other ships and goods of the like description; and Prize ships and goods liable to Customs duties and forfeiture, as if imported.

All goods brought in as prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorize the sale or delivery thereof for home use or exportation, unconditionally, or subject to such conditions and regulations as they may direct.

48. Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall on arrival at such port bring to at the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced; and every such ship shall be liable to such searches as other ships are liable to; and the officers of the Customs may freely go on board such ship Regulations of Customs to be observed as to prize ships and goods.

and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's Treasury.

Sale of prize goods: Power of Treasury to remit Customs duties in certain cases.

49. Goods taken as prize may be sold either for home consumption or for exportation; and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commissioners of Her Majesty's Treasury may remit the whole or such part of the said duties as they see fit.

Perjury.

Punishment of persons guilty of perjury, or subornation of perjury.

50. If any person wilfully and corruptly swears, declares, or affirms falsely in any prize cause or appeal, or in any proceeding under this Act, or in respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

Limitation of Actions, &c.

Actions against persons executing Act not to be brought without notice, &c., nor after a certain time.

51. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act, for any alleged irregularity or trespass, or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased.

General issue

In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and

Tender of amends.

may give all special matter in evidence; and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made, the defendant may,

Payment into court.

by leave of the court in which the action is brought, at any time pay into court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on

Costs.

the payment of money into court in an ordinary action; and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and

about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action, he shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action.

Actions against persons in Navy or Admiralty.

Any such action or proceeding against any person in Her Majesty's Naval Service, or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

Petitions of Right.

Jurisdiction of High Court of Admiralty on petitions of right in certain cases, as in 23 & 24 Vict. c. 34.

52. A PETITION of right, under The Petitions of Right Act, 1860, may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case the subject matter of the petition or any material part thereof arises out of the exercise of any belligerent right on behalf of the Crown, or would be cognizable in a prize court within Her Majesty's dominions if the same were a matter in dispute between private persons.

Any petition of right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that court, if the Lord Chancellor thinks fit so to direct.

Appeal, and general orders regulating procedure.

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such petition of right intituled or directed to be prosecuted in that court; and, subject thereto, all the provisions of The Petitions of Right Act, 1860, shall apply, mutatis mutandis, in the case of any such petition of right; and for the purposes of the present section the terms "court" and "judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the judge thereof, and other terms shall have the respective meanings given to them in that Act.

23 & 24 Vict. c. 34. to apply.

Orders in Council.

Power to make Orders in Council.

53. HER Majesty in Council may from time to time make such Orders in Council as seem meet for the better execution of this Act.

Orders in Council to be gazetted, &c.

54. EVERY Order in Council under this Act shall be published in the London Gazette, and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and if not, then within thirty days after the next meeting of Parliament.

Savings.

55. NOTHING in this Act shall—

Saving for rights of Crown, effect of treaties, &c.

(1) give to the officers and crew of any of Her Majesty's ships of war any right or claim in or to any ship or goods taken as prize or the

proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of prizes as may be from time to time granted to them by the Crown; or

(2) affect the operation of any existing treaty or convention with any foreign power; or

(3) take away or abridge the power of the Crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates; or

(4) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the office of Lord High Admiral; or

(5) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a prize court to take cognizance of and judicially proceed upon any capture, seizure, prize, or reprisal of any ship or goods, and to hear and determine the same; and, according to the course of Admiralty and the law of nations, to adjudge and condemn any ship or goods, or any other jurisdiction or authority of or exercisable by a prize court.

Commencement.

Commencement of Act.

56. THIS Act shall commence on the commencement of The Naval Agency and Distribution Act, 1864.

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27 & 28 VICTORIA. A. D. 1864.

CHAPTER LI.

An Act to vest the Site of the India Office in Her Majesty for the Service of the Government of India.

[*25th July 1864.*]

WHEREAS under or by virtue of the powers and provisions of the Acts following, or some of them, namely, the Acts of the eighteenth and nineteenth years of Her Majesty, chapter ninety-five, the twenty-second and twenty-third years of Her Majesty, chapter nineteen, the twenty-fourth and twenty-fifth years of Her Majesty, chapters thirty-three and eighty-eight, and the twenty-fifth and twenty-sixth years of Her Majesty, chapter seventy-four

(being the Acts for the extension of the public offices in Downing Street), the land described in the schedule to this Act, together with other land, has been purchased or otherwise acquired by and is now vested in the Commissioners of Her Majesty's Works and Public Buildings: And whereas the Secretary of State in Council of India has proposed to purchase the said land described in the schedule to this Act as a site for offices of his department for a sum of eighty-six thousand seven hundred and sixty-five pounds seventeen shillings and four pence, and parts of the same land were acquired by the said Commissioners of Her Majesty's Works and Public Buildings with a view to such proposed purchase, and the purchase monies for such last-mentioned parts, amounting in the whole to the sum of thirty-three thousand two hundred and twenty pounds seventeen shillings and seven pence, were in fact provided and paid by the Secretary of State in Council of India: And whereas it is expedient that on payment of the balance of the price aforesaid the said land described in the said schedule to this Act should be transferred to and vested in Her Majesty for the service of the Government of India, as herein-after mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

On payment of 53,544*l.* 19*s.* 9*d.* by Secretary of State of India, the land described in schedule to become vested in Her Majesty, &c.

1. On payment by the Secretary of State in Council of India into the Bank of England to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland of the sum of fifty-three thousand five hundred and forty-four pounds nineteen shillings and nine pence, all the land described in the schedule to this Act shall (subject as in the same schedule is mentioned) become and remain vested in Her Majesty, her heirs and successors, for the service of the Government of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six, for all the estate and interest therein of the said Commissioners of Her Majesty's Works and Public Buildings.

The land, when so vested, to continue liable to the payment of a portion of rates and taxes.

2. The said land, when so vested in Her Majesty, shall be and continue liable to the payment of eleven thirty-fifth parts of all the parochial rates and taxes to which the entirety of the land acquired by the said Commissioners of Her Majesty's Works and Public Buildings under or by virtue of the said Acts for the extension of the public offices is or shall be by law subject and liable.

Nothing to be built on the great quadrangle.

3. Nothing whatever shall be built on any part of the great quadrangle delineated on the plan referred to in the said schedule to this Act, without the mutual consent of the Secretary of State in Council of India and the first Commissioner of Her Majesty's Works and Public Buildings for the time being.

The SCHEDULE above referred to.

ALL the piece of land containing sixty-one thousand three hundred and forty superficial feet, or thereabouts, situate in the parish of Saint Margaret in the city and liberty of Westminster in the county of Middlesex, abutting on the west on Saint James' Park, on the north partly on Saint James' Park and partly on other land acquired by the Commissioners of Her Majesty's Works and Public Buildings under the above-mentioned Acts, on the east on other land also acquired by the said Commissioners under the same Acts, and on the south on Charles Street and on a passage leading from Saint James' Park to Charles Street, as the same land is delineated and described on a plan signed by the Right Hon'ble William Francis Cowper, the first Commissioner of Her Majesty's Works and Public Buildings, and by the Right Hon'ble Sir Charles Wood, Baronet, one of Her Majesty's Principal Secretaries of State, and now deposited, or intended to be forthwith deposited, among the records of Her Majesty's court of Exchequer, and coloured red on the same plan; subject nevertheless to the maintenance of a foot and carriage way into the great quadrangle at the place marked on the said plan to the satisfaction of the Commissioners for the time being of Her Majesty's Works and Public Buildings, so long as the same shall be required by the same Commissioners.

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28 & 29 VICTORIA. A. D. 1865.

CHAPTER XV.

An Act to extend the Term for granting fresh Letters Patent for the High Courts in India, and to make further Provision respecting the Territorial Jurisdiction of the said Courts. [*7th April 1865.*]

WHEREAS it is expedient to extend the time fixed for granting fresh letters patent for the high courts in India under the provisions of an Act passed in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, intituled "An Act for establishing high courts of judicature in India," and to make further provision than is in the said Act contained for empowering the alteration from time to time of the local limits of the said high courts, and for the exercise, in places beyond the limits of the Presidencies, or places within and for which such high courts are established, of the jurisdiction and powers conferred by Her Majesty's letters patent on the said high courts: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and commons, in

24 & 25 Vict. c. 104.

this present Parliament assembled, and by the authority of the same, as follows:

Extension of time for granting fresh letters patent for high courts in India.

1. THE time fixed for granting fresh letters patent for the high courts in India by section seventeen of the said recited Act is hereby extended to the first day of January one thousand eight hundred and sixty-six.

* * * * * * * * *

Power to Governor General in Council to alter local limits of jurisdiction of high courts, and to authorize the exercise of jurisdiction beyond the limits of the Presidency, &c. and in respect of Christian subjects within the dominions of States of India in alliance with Her Majesty.

3. IT shall be lawful for the Governor General of India in Council, by order, from time to time to transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts established or to be established under the said Act, and to authorize and empower any high court to exercise all or any portion of the jurisdiction and powers conferred or to be conferred on it by Her Majesty's letters patent establishing the same, or any other letters patent issued by Her Majesty under the provisions of the above-recited Act of the twenty-fourth and twenty-fifth years of Her Majesty, within any such portions of Her Majesty's dominions in India, not included within the limits of the Presidency or place or places for which such high court was established, as the said Governor General in Council may from time to time determine, and also to exercise any such jurisdiction in respect of Christian subjects of Her Majesty resident within the dominions of such of the Princes and States of India in alliance with Her Majesty as the said Governor General in Council may, in manner aforesaid, from time to time determine, anything in the said recited Act of the twenty-fourth and twenty-fifth years of Her present Majesty notwithstanding.

Power to Crown to disallow any order of the Governor General for that purpose.

4. WHENEVER any such Order has been passed by the Governor General in Council, he shall transmit to the Secretary of State for India an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such Order; and such disallowance shall make void and annul such Order from and after the day on which the Governor General shall make known by proclamation, or by signification to his Council, that he has received the notification of such disallowance by Her Majesty: Provided always, that all acts, proceedings, and judgments done, taken, or given by such high courts, and not set aside by any competent authority before the promulgation or signification as aforesaid of such disallowance by Her Majesty, shall be deemed to be and to have been valid and effectual for all purposes whatever, such disallowance notwithstanding.

Saving for acts done under such order.

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Saving for certain powers of Governor General in Council.

6. NOTHING in this Act contained shall interfere with the powers of the Governor General in Council at meetings for the purpose of making laws and regulations.

28 & 29 VICTORIA. A. D. 1865.

CHAPTER XVII.

An Act to enlarge the Powers of the Governor General of India in Council at Meetings for making Laws and Regulations, and to amend the Law respecting the Territorial Limits of the several Presidencies and Lieutenant Governorships in India. [*9th May 1865.*]

24 & 25 Vict. c. 67. s. 22.

WHEREAS by an Act passed in the session holden in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter sixty-seven, it was, among other things, enacted, that the Governor General of India in Council shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all persons, whether British or native, foreigners or others, within the Indian territories under the dominion of Her Majesty, and for all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty: And whereas it is expedient to enlarge the said power by authorizing the Governor General of India in Council to make laws and regulations for all British subjects of Her Majesty within the dominions of such Princes and States: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to make laws for all British subjects in territories of allied Princes in India, whether in service of Government or otherwise.

1. THE Governor General of India shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all British subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, whether in the service of the Government of India or othrewise.

Preceding section to be read as part of sect. 22 of recited Act.

2. THE preceding section shall be read with and taken as part of section twenty-two of the said Act of the twenty-fourth and twenty-fifth years of Her Majesty, chapter sixty-seven.

Preamble.

3. AND whereas it is expedient to amend the law respecting the territorial limits of the several Presidencies and Lieutenant Governorships in India:

. . . . . .

Power to Governor General to appoint territorial limits of Presidencies, &c. by proclamation.

4. IT shall be lawful for the Governor General of India in Council from time to time to declare and appoint, by proclamation, what part or parts of the Indian territories, for the time being under the dominion of Her Majesty shall be or continue subject to each of the Presidencies and Lieutenant Governorships for the time being subsisting in such territories, and

to make such distribution and arrangement, or new distribution and arrangement, of such territories into or among such Presidencies and Lieutenant Governorships as to the said Governor General in Council may seem expedient.

Power to Secretary of State in Council to signify disallowance of such proclamation. Royal sanction necessary to transfer of entire districts.

5. PROVIDED always, that it shall be lawful for the Secretary of State in Council to signify to the said Governor General in Council his disallowance of any such proclamation: And provided further, that no such proclamation for the purpose of transferring an entire zila or district from one Presidency to another, or from one Lieutenant Governorship to another, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

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28 & 29 VICTORIA. A. D. 1865.

CHAPTER XXXII.

An Act to enable the Secretary of State in Council of India to acquire additional Lands for improving the Site of the India Office and the Approaches thereto.

[*2nd June 1865.*]

WHEREAS under the provisions of the Act of the twenty-seventh and twenty-eighth years of Her Majesty, chapter fifty-one, intituled "An Act to vest the site of the India Office in Her Majesty for the service of the Government of India," the land described in the schedule to that Act (subject as in the same schedule is mentioned) became vested in Her Majesty, her heirs and successors, for the service of the Government of India as a site for the offices of the Secretary of State in Council of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six: And whereas certain houses, buildings, and lands in the parish of St. Margaret, Westminster, in the county of Middlesex, particularly described and shown in the plan hereinafter mentioned, are required by the Secretary of State in Council of India as additional site for the offices of his department and for the approaches thereto, but such houses, buildings, and lands cannot be acquired without the authority of Parliament: And whereas a plan describing the situation of the said houses, buildings, and land, hereinafter referred to as the prescribed lands, with a book of reference thereto containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers thereof, has been deposited with the clerk of the peace for the county of Middlesex, at his office at the sessions house, Clerkenwell, and it is expedient that powers should be given to the Secretary of State in Council of India to purchase the prescribed lands and to appropriate the same for the purposes aforesaid: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the

27 & 28 Vict. c. 51.

lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The India Office Site and Approaches Act, 1865."

Power to Secretary of State in Council to purchase lands.

2. THE Secretary of State in Council of India for the time being, hereinafter referred to as "The Secretary of State in Council," may purchase all or any of the prescribed lands, and appropriate the same as additional site for the offices of the department of the Secretary of State in Council, and for convenient accesses and approaches thereto, and carry the purposes of this Act into execution.

Lands purchased to vest in Her Majesty, &c.

3. ALL lands purchased by the Secretary of State in Council in pursuance of this Act shall be conveyed to the Secretary of State in Council in trust for Her Majesty, her heirs and successors, and shall thereupon vest in Her Majesty, her heirs and successors, for the service of the Government of India, according to the provisions of the Act of the twenty-first and twenty-second years of Her Majesty, chapter one hundred and six.

Lands to continue subject to land tax and rates.

4. ALL lands purchased by the Secretary of State in Council in pursuance of this Act, and hereafter used and occupied exclusively as offices and for the purposes of this Act, which were at the time of such purchase subject to land tax or to poor or other rates, shall continue liable thereto, but they shall not be assessed to any tax or rate at a higher value than that at which they were assessed at the time of the purchase thereof, so long as they shall be so used and occupied as aforesaid.

Power to enter on lands.

5. THE Secretary of State in Council, his surveyors, officers, and workmen, may at all reasonable times in the daytime, upon giving twenty-four hours' previous notice in writing, enter into and upon any of the prescribed lands for the purpose of surveying or valuing the same.

8 & 9 Vict. c. 18. and 23 & 24 Vict. c. 106. incorporated.

6. "THE Lands Clauses Consolidation Act, 1845," and the Act amending the same, passed in the session of the twenty-third and twenty-fourth years of her present Majesty, chapter one hundred and six, shall be incorporated with this Act, with the exceptions and additions and subject to the provisions hereinafter contained; (that is to say,)

(1) There shall not be incorporated with this Act the sections and provisions of "The Lands Clauses Consolidation Act, 1845," hereinafter mentioned; (that is to say,) section sixteen, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; section seventeen, whereby it is provided that the certificate of the justices shall be evidence that the capital has been subscribed; or the provisions relating to access to the special Act

(2) In the construction of this Act and the said incorporated Acts this Act shall be deemed to be "the special Act," and the said incorporated Acts shall be read as if the expression "the promoters of the undertaking" were in the singular number, and the Secretary of State in Council shall be deemed and taken to be the promoter of the undertaking:

(3) The term "sheriff" used in the provisions of "The Lands Clauses Consolidation Act, 1845," relating to the reference to a jury, shall be deemed to apply to the high bailiff of the city and liberty of Westminster or his deputy:

(4) The bond required by section eighty-five of "The Lands Clauses Consolidation Act, 1845," shall be under the hand and seal of the Secretary of State in Council, and shall be sufficient without the addition of the sureties in the said section mentioned.

Extinction of rights of way and other easements.

7. UPON the purchase by the Secretary of State in Council of the prescribed lands or any part thereof, save as hereinafter provided in section eleven of this Act, all rights of way, rights of laying down or continuing any pipes, sewers, or drains on, through, or under such lands or part thereof, and all other rights or easements in or relating to such lands or part thereof, shall be extinguished, and all the soil of such ways and the property in the pipes, sewers, or drains shall vest in Her Majesty, her heirs and successors, for the service of the Government of India, subject to this provision, that all persons and bodies of persons, corporate or unincorporate, may recover from the Secretary of State in Council such compensation, if any, as they may be entitled to for any rights or property of which they may be deprived in pursuance of this section, the amount of such compensation to be determined in manner provided by "The Lands Clauses Consolidation Act, 1845."

Compensation in case of tenants at will, &c.

8. ALL claims for compensation made upon the Secretary of State in Council under the provisions of this Act, or any Act incorporated herewith, shall, if the person claiming to be entitled to compensation has no greater interest than as tenant for a year or from year to year in the lands in respect of which the compensation is claimed, be determined in manner provided by the one hundred and twenty-first section of "The Lands Clauses Consolidation Act, 1845."

Powers for compulsory purchases limited.

9. THE period within which the powers for the compulsory purchase of lands under this Act may be exercised shall be five years from the passing of this Act.

Powers to Secretary of State in Council to execute works.

10. THE Secretary of State in Council may pull down and remove any buildings on the prescribed lands, and may construct thereon such buildings and works, and do all such other things as may in his opinion be necessary or expedient in order to carry the purposes of this Act into execution.

As to rights of metropolitan board of works.

11. NOTHING in this Act shall extend to take away or impair any rights or jurisdiction of the metropolitan board of works in relation to any sewers, drains, or watercourses.

Exemption from Building Act.

12. ALL buildings erected on the prescribed lands shall be exempt from the operation of the first part of "The Metropolitan Buildings Act, 1855."

Authentication of notices.

13. EVERY notice, summons, writ, or other document required to be given, issued, or signed by or on behalf of the Secretary of State in Council may be given, issued, or signed by the Principal Secretary of State for India for the time being, or one of his Under Secretaries of State, or the solicitor for the time being of the Secretary of State in Council, and need not be under seal, and may be in writing or in print, or partly in writing and partly in print.

Orders concerning money paid into court may be made at chambers.

14. ALL orders which under this Act the court of chancery is empowered to make on motion or petition in relation to any money paid into the Bank of England with the privity of the accountant general of the court of chancery under this Act, or the securities in or upon which the same may be invested, or the dividends or interest on such money and securities, may be made by any judge of the said court upon application to him while sitting at chambers, upon summons, in like manner as in other cases in which proceedings may be so had; subject, nevertheless, to any general orders which may hereafter be made concerning the practice, proceedings, or business of the said Court on any such applications.

Penalty for obstructing the Secretary of State in Council.

15. IF any person wilfully obstruct any person acting under the authority of the Secretary of State in Council in the lawful exercise of the powers vested in the Secretary of State in Council under this Act, he shall forfeit a sum not exceeding five pounds for every such offence, to be recovered in a summary manner.

Plan to be deposited in India Office and to be open for inspection.

16. A COPY of the plan of the prescribed lands shall be deposited at the office of the Secretary of State in Council, and shall remain at the said office, to the end that all persons may at all seasonable times, on payment of a fee of one shilling, have liberty to inspect the same.

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28 & 29 VICTORIA. A. D. 1865.

CHAPTER CXVI.

An Act to explain the Foreign Jurisdiction Act.

[*5th July 1865.*]

BE it declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons,

in this present Parliament assembled, and by the authority of the same, as follows:

Meaning of "British colony" in 6 & 7 Vict. c. 94.

1. In the Foreign Jurisdiction Act (that is to say, the Act of the session of the sixth and seventh years of Her Majesty's reign, chapter ninety-four, "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual,") the term "British colony" includes and shall be construed to include any of Her Majesty's possessions out of the United Kingdom.

Short title.

2. This Act may be cited as "The Foreign Jurisdiction Act Amendment Act, 1865."

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29 & 30 VICTORIA. A. D. 1866.

Chapter XVIII.

An Act to make Provision for the Transfer of the Assets, Liabilities, and Management of the Bengal, Madras, and Bombay Military Funds, the Bengal Military Orphan Society, and other Funds, to the Secretary of State for India in Council.

[*30th April 1866.*]

Whereas certain institutions known as the Bengal Military Fund, the Bengal Military Orphan Society, the Madras Military Fund, and the Bombay Military Fund, were established in India at different times, under the authority of the Honourable East India Company, for the grant of certain benefits to the commissioned officers of the said Company's army who were subscribers to those institutions, and for the grant of pensions and other allowances to the widows and orphans of such officers, and those institutions were supported by donations and subscriptions from the officers of the said Company's army, and by certain aids from the said Company:

21 & 22 Vict. c. 106. s. 56.

And whereas by the Act of the twenty-first and twenty-second Victoria, chapter one hundred and six, for the better government of India, it was amongst other things provided that the Military and Naval Forces of the East India Company should be deemed to be the Indian Military and Naval Forces of Her Majesty, and should be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company:

And whereas, in consequence of the changes subsequently made in the constitution of the Indian Army, notice was given to the Government of India by the Secretary of State for India in Council that the said Secretary of State for India in Council was ready to assume the liabilities of the said institutions,

so far as might be requisite to maintain existing pensions, and to secure to the subscribers and their families the benefits to which they were entitled therefrom, and also that, in the event of such assumption, present incumbents on and subscribers to the several funds should be guaranteed the pensions and allowances for themselves and their families to which they were entitled from those funds, according to the regulations then in force, and at the rates of subscription then existing:

And whereas, under instructions from the Secretary of State for India in Council, the Government of India caused the question whether, under the guarantee so given, the assets and liabilities of the said institutions should be made over by the directors and managers thereof to the Secretary of State for India in Council to be submitted for the votes of the subscribers to those institutions, and the proposition so to make over the assets and liabilities of the said institutions was, in regard to each of the said institutions, carried in the affirmative by a large majority of votes:

And whereas, in order to avoid any doubt that may hereafter arise in regard to the legality of such transfer, it is necessary to make provision by law for enabling the directors and managers of the said institutions to transfer the assets, liabilities, and management thereof to the Secretary of State for India in Council, and for enabling the said Secretary of State for India in Council to accept the same:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

The Secretary of State for India in Council may take and assume the assets, &c. of certain pension funds in India.

1. It shall be lawful for the directors and managers of the said institutions to make over the assets, liabilities, and management thereof to the Secretary of State for India in Council, and for the Secretary of State for India in Council to take and assume the assets, liabilities, and management thereof.

Rights of incumbents and subscribers maintained.

2. As soon as the said assets, liabilities, and management shall be made over as aforesaid, and the acceptance thereof by the Secretary of State for India in Council notified by the Government of India, every person who shall be an incumbent on or subscriber to any of the said institutions at the date of such notification shall be entitled from time to time to receive from the revenues of India such allowance to himself, and his family shall be entitled to receive such pension or allowance after his decease, as he or they may be entitled to by the regulations of the said institutions: Provided, that nothing in this Act contained shall be held to preclude the Secretary of State for India in Council from assigning to the incumbents on and subscribers to any of the said institutions, or to their families after their decease, any benefits

Power to assign additional benefits.

in addition to those secured to them by this Act, if, on considering the assets and liabilities of the several institutions, he shall deem it reasonable so to do.

3. AND whereas it may be expedient that the Secretary of State for India in Council should have authority in like manner to accept the transfer of the assets, liabilities, and management of other institutions, known as the Bengal Medical Retiring Fund, the Madras Medical Fund, and the Bombay Medical Retiring Fund, with the consent of the subscribers to the said institutions respectively: It shall be lawful for the managers or trustees to make over the assets, liabilities, and management of all or any of the said funds, and for the Secretary of State for India in Council to take and assume the same, if at any time hereafter it shall appear by a vote, specially taken for the purpose, that a majority of not less than three fourths of the subscribers to those institutions who may vote upon the question are desirous of transferring them to the said Secretary of State for India in Council.

Power to take and assume the assets, &c. of certain other pension funds, by consent of the subscribers thereto.

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29 & 30 VICTORIA. A. D. 1866.

CHAPTER XLVII.

An Act to legalize the Payment and Distribution of Indian Prize Money by the Treasurer or Secretary of Chelsea Hospital, and to amend an Act for the consolidating and amending the Law relating to the Payment of Army Prize Money.

[*28th June 1866.*]

WHEREAS by the fourteenth section of the Act of the second year of His late Majesty King William the Fourth, chapter fifty-three, for consolidating and amending the laws relating to the payment of army prize money, it is provided that all grants of money in the nature of prize "hereafter to be made by His Majesty, or by Parliament, or otherwise, to the officers and troops of any division of the Army employed upon or engaged in any capture or expedition, shall, unless by the grant otherwise expressly directed, be received on behalf of the Army by the treasurer of Chelsea Hospital or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under the provisions of the said Act":

2 & 3 Will. 4. c. 53. s. 14.

And whereas sundry grants of money in the nature of prize have been from time to time made by Her Majesty to the directors of the East India Company, and since the passing of the Act of the twenty-first and twenty-second years of Her Majesty, "for the better government of India," to the Secretary of State for India in Council, for distribution among the officers and troops of Her Majesty's Army in respect of captures and expeditions in which such officers and troops have been engaged in India:

And whereas such portions of the sums of money so granted as aforesaid as may not have been claimed and distributed in India have been from time to time paid over and accounted for by the said directors and Secretary of State in Council to the said treasurer as sums of money to be received on behalf of the Army by the said treasurer or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under the provisions of the said recited Act, and the said treasurer hath received and dealt with the same accordingly:

And whereas doubts have been raised whether the said directors and Secretary of State in Council had authority for paying over and accounting for such monies as aforesaid to the said treasurer, and whether the said treasurer or his deputy could legally receive and distribute the same under the terms and provisions of the said recited Act:

And whereas it is expedient that all such doubts should be removed, and that it should be declared that the said directors and Secretary of State in Council had authority for paying over and the said treasurer for receiving the same monies for distribution under the provisions of the said recited Act:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Receipt of treasurer or secretary of Chelsea Hospital for sums heretofore or hereafter paid over by East India Company or Secretary of State for India as monies in nature of army prize to be an effectual discharge.

1. THE receipt of the treasurer or secretary of Chelsea Hospital, or his deputy, for all sums of money heretofore by the said directors of the East India Company, or the Secretary of State for India in Council, or hereafter by the said Secretary of State, paid over and accounted for as portions of grants of money in the nature of prize, shall be a complete and effectual discharge to the said directors or Secretary of State, as the case may be, paying the same, from all claims of officers and troops of Her Majesty's Army having any right or title thereto, or to the distribution thereof, in respect of captures or expeditions in which such officers and troops have been engaged.

All sums so paid, and already distributed under recited Act, to be deemed to have been legally dealt with and distributed, and sums hereafter paid to be distributed under recited Act.

2. ALL such monies as have been so received by the said treasurer, secretary, or by his deputy, from the said directors of the late East India Company, or the Secretary of State for India in Council, shall be held and are hereby declared, so far as the same have been dealt with and distributed according to the provisions of the said Act, to have been legally dealt with and distributed, and so far as the same remain in the hands of the said treasurer, secretary, or his deputy, that the same are held and are hereby declared to be subject and liable to all the provisions and conditions of the said recited Act, so far as the same are applicable to prize granted by Her Majesty to and to be received on behalf of the Army by the said treasurer of Chelsea Hospital or his deputy.

Payment and distribution of grants hereafter made in nature of army prize, in respect of captures in India, and distributable out of India.

3. In all cases where grants of money in the nature of prize shall hereafter be made by Her Majesty, or by Parliament, or otherwise, to the Secretary of State for India in Council, for the benefit of officers and troops of Her Majesty's Army in respect of captures and expeditions in which such officers and troops may have been engaged in India, such portions of the same as are distributable in the United Kingdom or elsewhere out of India shall be received by the said treasurer, secretary, or his deputy, to be distributed to the persons entitled thereunto, according to their respective proportions, under the provisions of the said recited Act, and of this and of any other Act amending the same.

Interpretation of "officers and troops of Her Majesty's Army."

4. For the purpose of this Act the words "officers and troops of Her Majesty's Army" shall not be held to include officers and soldiers of Her Majesty's European or native Indian forces.

Signature of certificates or orders required from out-pensioners of Chelsea Hospital.

5. Where under the recited Act any certificate or order in the form E., or in any other form, is required from any non-commissioned officer or soldier who shall be or shall have been an out-pensioner of Chelsea Hospital, the same may be signed by the staff officer of pensioners for the district in which the said non-commissioned officer or soldier shall reside, in lieu of any other person or officer mentioned in the said Act.

In certain cases of payment of prize money due to deceased officers or soldiers, probate or letters of administration need not be taken out.

6. Where any officer, non-commissioned officer, or soldier entitled to prize money shall have died before the payment or distribution thereof, then, if the sum to which the deceased was entitled does not exceed the sum mentioned in the Army Prize (Shares of Deceased) Act, 1864, it shall not be necessary, for the purpose of making payment or distribution, that probate or letters of administration should be taken out; but in any case the said treasurer or secretary may, if he sees fit, require probate or letters of administration to be taken out; and if, on that requisition or otherwise, probate or letters of administration are taken out, then he shall pay the prize money to the executor or administrator.

Payment of prize in money, when administration is not taken out.

7. Where the prize to which the deceased was entitled does not exceed the sum last referred to, and probate or letters of administration are not taken out, then the said treasurer or secretary shall, if he thinks fit, pay over the same to any person showing herself or himself to the satisfaction of the said treasurer or secretary to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to the representation to the deceased, to the end that the said prize may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be applied accordingly, or else distribute the same according to the Statute of Distributions.

Stamp duty on orders for payment

8. Where under the statutes at present in force an order for the payment of prize money is liable to stamp duty, the amount of such duty may be paid

of prize money may be paid by receipt or draft stamps affixed. No duty on orders for less than 40*s*.

by receipt or draft stamps affixed to the said order, equal in the total amount thereof to the stamp duty payable on an inland bill for a sum equal to that for which the order is given; and that no order for any sum less than forty shillings shall be liable to stamp duty.

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29 & 30 VICTORIA. A. D. 1866.

Chapter CIX.

An Act to make Provision for the Discipline of the Navy.

[*10th August 1866.*]

Whereas it is expedient to amend the law relating to the government of the Navy, whereon, under the good Providence of God, the wealth, safety, and strength of the Kingdom chiefly depend:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Part I.

Articles of War.

Public Worship.

Public worship to be performed in ships.

1. All officers in command of Her Majesty's ships of war shall cause the public worship of Almighty God according to the Liturgy of the Church of England established by law to be solemnly, orderly, and reverently performed in their respective ships, and shall take care that prayers and preaching, by the chaplains in holy orders of the respective ships, be performed diligently, and that the Lord's Day be observed according to law.

Misconduct in the Presence of the Enemy.

Penalty for misconduct in action.

2. Every flag officer, captain, commander, or officer commanding subject to this Act who upon signal of battle, or on sight of a ship of an enemy which it may be his duty to engage, shall not,

(1) Use his utmost exertion to bring his ship into action;

(2) Or shall not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously;

(3) Or who shall surrender his ship to the enemy when capable of making a successful defence, or who in time of action shall improperly withdraw from the fight,

shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is herein-after mentioned; and if he has acted from negligence, or through other default, he shall be dismissed from Her Majesty's service, with or without disgrace, or shall suffer such other punishment as is herein-after mentioned.

Penalty for not pursuing the enemy, or not assisting a friend in view.

3. EVERY officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist a known friend in view to the utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death; if he has acted from cowardice, suffer death, or such other punishment as is herein-after mentioned; if he has acted from negligence, or through other default, shall be dismissed from Her Majesty's service, with disgrace, or shall suffer such other punishment as is herein-after mentioned.

Penalty for delaying or discouraging action or service, deserting post, or sleeping on watch.

4. WHEN any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretenee whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch, shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for misconduct of subordinate officers and men in action.

5. EVERY person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is herein-after mentioned; and if he has acted from negligence, or through other default, be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Communications with the Enemy.

Penalty on spies.

6. ALL spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for corresponding, &c. with the enemy.

7. EVERY person subject to this Act who shall—

(1) Traitorously hold correspondence with or shall give intelligence to the enemy;

(2) Or fail to make known to the proper authorities any information he may have received from the enemy;

(3) Or who shall relieve the enemy with any supplies,

shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for improper communication

8. EVERY person subject to this Act who shall, without any treacherous intention, hold any improper communication with the enemy, shall be dis-

with the enemy.

missed with disgrace from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned.

Neglect of Duty.

Penalty for deserting post, sleeping on watch, or neglecting duty.

9. EVERY person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall be dismissed from Her Majesty's service, with disgrace, or shall suffer such other punishment as is herein-after mentioned.

Mutiny.

Penalty for mutiny accompanied by acts of violence, and for not using utmost efforts to suppress such mutiny.

10. WHERE mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death, or such other punishment as is herein-after mentioned; and every person subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is herein-after mentioned; if he has acted from cowardice, shall suffer penal servitude, or such other punishment as is herein-after mentioned; if he has acted from negligence, he shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty for mutiny not accompanied by acts of violence, and for not using utmost efforts to suppress such mutiny.

11. WHERE a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is herein-after mentioned; and all other persons who shall join in such mutiny, or shall not use their utmost exertions to suppress the same, shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Penalty for seducing from allegiance, or inciting to mutiny.

12. EVERY person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavour to incite him to commit any act of mutiny, shall suffer death, or such other punishment as is herein-after mentioned.

Penalty on civilians endeavouring to seduce from allegiance.

13. EVERY person, not otherwise subject to this Act, who, being on board any ship of Her Majesty, shall endeavour to seduce from his duty or allegiance to Her Majesty any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death, or such other punishment as is herein-after mentioned.

Penalty for making mutinous assemblies, or uttering seditious words.

14. EVERY person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly, or shall utter any words of sedition or mutiny, shall suffer penal servitude, or such other punishment as is herein-after mentioned.

Penalty for

15. EVERY person subject to this Act who shall wilfully conceal any

traitorous or mutinous practice or design, or any traitorous or mutinous words spoken against Her Majesty, or any words, practice, or design tending to the hindrance of the service, shall suffer penal servitude, or such other punishment as is herein-after mentioned.

concealing any traitorous or mutinous practice, design, or words.

16. EVERY person subject to this Act who shall strike, or with any weapon attempt to strike, or draw or lift up any weapon against, his superior officer being in the execution of his office, shall be punished with death, or such other punishment as is herein-after mentioned; and every person subject to this Act who shall, otherwise than with a weapon, attempt to strike or use or attempt to use any violence against his superior officer being in the execution of his office, shall be punished with penal servitude, or such other punishment as is herein-after mentioned; and every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer not being in the execution of his office, shall be punished with penal servitude, or such other punishment as is herein-after mentioned.

Penalty for striking or attempting to strike, &c., superior officer.

Insubordination.

17. EVERY person subject to this Act who shall wilfully disobey any lawful command of his superior officer, or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal with disgrace from Her Majesty's service, or suffer such other punishment as is herein-after mentioned.

Penalty for disobedience or using threatening language to superior officer.

18. EVERY person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Penalty for quarrelling, &c., or using reproachful speech or gestures.

Desertion and Absence without Leave.

19. EVERY person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances, when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,

Penalty for desertion.

(1) If he has deserted to the enemy, he shall be punished with death, or such other punishment as is herein-after mentioned;

(2) If he has deserted under any other circumstances, he shall be punished with penal servitude, or such other punishment as is herein-after mentioned;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him, and all annuities, pensions, gratuities, medals, and decorations that may have been granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried, or the Admiralty, shall otherwise direct.

Penalty for inducing any person to desert.

20. EVERY person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment, or such other punishment as is herein-after mentioned.

Penalty on officers entertaining deserters from military or naval forces.

21. EVERY officer in command of any ship of Her Majesty who shall receive or entertain any deserter from Her Majesty's military or naval forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from Her Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the Secretary of the Admiralty or to the commander-in-chief, or, in case of a deserter from Her Majesty's military forces, give notice to the Secretary of War, or the commanding officer of the regiment to which such deserter belongs, the officer so offending shall be dismissed from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned.

Penalty for improperly leaving ship or place of duty.

22. IF any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment, or to such other punishment as is herein-after mentioned, and to such other punishment by forfeiture of wages or of other benefits as the Admiralty from time to time by regulations prescribe.

Penalty for absence without leave.

23. EVERY person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the Admiralty from time to time by regulations prescribe.

Forfeiture of effects by persons absent without leave for a month, but not apprehended and tried.

24. IF any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not), but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the Admiralty from time to time by regulations prescribe, and the Admiralty, or, on a foreign

station, the commander-in-chief, may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on board ship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the Admiralty or the commander-in-chief (as the case may be) may direct; and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the Admiralty may, if it seems fit, on sufficient cause being shewn at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

Penalty on any person not subject to this Act for assisting, &c., desertion.

25. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs, or continues to employ any person subject to this Act who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall, for every such offence of assistance, procurement, concealment, employment, or continuance of employment, be liable on summary conviction thereof before a justice or justices, or before any person or persons or court exercising like authority in any part of Her Majesty's dominions, to a penalty not exceeding thirty pounds; and, notwithstanding anything in any Act relating to municipal corporations, or to the metropolitan police, or in any other Act, every such penalty shall be applied as the Admiralty direct.

Application of penalty.

Penalty on any such person for persuading to desertion, &c.

26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on summary conviction thereof before a justice or justices, or before any person or persons or court exercising like authority in any part of Her Majesty's dominions, to a penalty not exceeding twenty pounds; and, notwithstanding anything in any Act relating to municipal corporations, or to the metropolitan police, or in any other Act, every such penalty shall be applied as the Admiralty direct.

Application for penalty.

Miscellaneous Offences.

Penalty for profane swearing and other immoralities.

27. Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness, or other scandalous action in derogation of God's honour and corruption of good manners, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty on officer for cruelty, fraud,

28. Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from

or unbecoming conduct.

Her Majesty's service; and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from Her Majesty's service.

Penalty for suffering ships to be improperly lost.

29. EVERY person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard, or suffer to be lost, stranded, or hazarded, any ship of Her Majesty or in Her Majesty's service, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty for not taking care of and defending ships under convoy, or for exacting reward from merchants or masters, or ill-treating masters or mariners.

30. THE officers of all ships of Her Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay, according to their instructions in that behalf; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death, or such other punishment as is herein-after mentioned.

Master of merchant vessel to obey orders of convoying officer.

31. EVERY master or other officer in command of any merchant or other vessel under the convoy of any ship of Her Majesty shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by such commanding officer; and if he shall fail to obey such directions, such commanding officer may compel obedience by force of arms, without being liable for any loss of life or of property that may result from his using such force.

Penalty for taking any goods on board, other than for use of vessel, except gold, silver, jewels, &c.

32. EVERY officer in command of any of Her Majesty's ships who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Admiralty or his superior officer, shall be dismissed from Her Majesty's service, or suffer such other punishment as is herein-after mentioned.

Penalty for

33. EVERY person subject to this Act who shall wastefully expend, embezzle,

or fraudulently buy, sell, or receive any ammunition, provisions, or other public stores, and every person subject to this Act who shall knowingly permit any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment, or such other punishment as is herein-after mentioned. wasting or embezzling public stores, or permitting such waste, &c.

34. EVERY person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard, or steam factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death, or such other punishment as is herein-after mentioned. Penalty for burning any magazine or vessel, &c. not belonging to an enemy.

35. EVERY person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned. Penalty for making or signing false musters, &c.

36. EVERY person subject to this Act who shall wilfully do any act, or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment, or such other punishment as is herein-after mentioned. Penalty for misconduct in hospital, or for feigning disease.

37. EVERY person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or commander-in-chief, and the said superior, captain, or commander-in-chief shall, as far as he is able, cause the same to be presently remedied; and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence. Complaints of unwholesomeness of victuals or on other just grounds, how to be made and redressed. Penalty for endeavouring to stir up disturbance.

38. ALL the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other court or commissioners as shall be authorized to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from Her Majesty's service, or shall suffer such other punishment as is herein-after mentioned, and in addition thereto shall forfeit and lose his share of the capture. Penalty for not sending to Court of Admiralty or other prize court all papers found aboard prize ships.

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better Penalty for taking money or other effects

out of any prize before the same shall be condemned.

securing thereof, or for the necessary use and service of any of Her Majesty's ships and vessels of war, before the same be adjudged lawful prize in some Admiralty court; but the full and entire account of the whole without embezzlement shall be brought in, and judgment passed entirely upon the whole, without fraud; upon pain that every person offending herein shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned, and in addition thereto forfeit and lose his share of the capture.

Penalty for stripping or ill-using persons taken on board a prize.

40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Penalty on commanders capturing as prize by collusion, or collusively restoring ships or goods.

41. If the commanding officer of any of Her Majesty's ships does any of the following things, namely,

(1) By collusion with the enemy takes as prize any vessel, goods, or thing;

(2) Unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize; or

(3) In pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize;

he shall be liable to dismissal from Her Majesty's service, with disgrace, or to such other punishment as is herein-after mentioned.

Penalty for breaking bulk on board prize ship or ship detained under belligerent rights, &c., with a view to embezzlement.

42. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the Customs, with intent to embezzle any thing therein or belonging thereto, he shall be liable to dismissal from Her Majesty's service, with disgrace, or to such other punishment as is herein-after mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for offences against naval discipline not particularly mentioned.

43. Every person subject to this Act who shall be guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not herein-before specified, shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is herein-after mentioned.

Offences to be punished according to laws and customs in use, where punishment is not expressly provided.

44. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death or penal servitude, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

Offences punishable by ordinary Law.

Penalties for offences punishable by ordinary law.

45. Every person subject to this Act who shall be guilty of murder shall suffer death:

If he shall be guilty of manslaughter, he shall suffer penal servitude, or such other punishment as is herein-after mentioned:

If he shall be guilty of sodomy with man or beast, he shall suffer penal servitude:

If he shall be guilty of an indecent assault, he shall suffer penal servitude, or such other punishment as is herein-after mentioned:

If he shall be guilty of robbery or theft, he shall suffer penal servitude, or such other punishment as is herein-after mentioned:

If he shall be guilty of any other criminal offence which if committed in England would be punishable by the law of England, he shall, whether the offence be or be not committed in England, be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in England.

Offences, when punishable.

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of the United Kingdom, or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of the United Kingdom of Great Britain and Ireland, or in any of Her Majesty's dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to Her Majesty, whether in or out of the said United Kingdom, the offender may be tried and punished under this Act; and for all offences herein-before specified under the headings "Misconduct in the Presence of the Enemy," "Communications with the Enemy," "Neglect of Duty," "Mutiny," "Insubordination," "Desertion and Absence without Leave," or "Miscellaneous Offences," if committed by any person subject to this Act at any place on shore, whether in or out of the said United Kingdom, the offender may be tried and punished under this Act.

Part II.

General Provisions.

Power of court-martial to find intent

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any prisoner

with which offence was committed, and award punishment accordingly.

is charged with having committed such offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly.

Power of court-martial to find prisoner guilty of lesser offence on charge of greater.

48. WHERE any prisoner shall be charged with murder, a court-martial may find him guilty of manslaughter or of a common assault; where he shall be charged with sodomy, a court-martial may find him guilty of an indecent assault; where he shall be charged with theft, a court-martial may find him guilty of an attempt to thieve, or of embezzelment, or of wrongful appropriation of property belonging to another; and generally where any prisoner shall be charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment.

Armed rebels and mutineers, and pirates, to be deemed enemies.

49. ALL armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Power to arrest offenders.

50. EVERY officer in command of a fleet or squadron of Her Majesty's ships, or of one of Her Majesty's ships, or the senior officer present at a port, may by warrant under his hand authorize any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of Her Majesty's ships; and any person so authorized may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

Penalty for not assisting in detection, &c. of offenders.

51. EVERY person subject to this Act who shall not use his utmost endeavours to detect, apprehend, and bring to punishment all offenders against this Act, and shall not assist the officers appointed for that purpose, shall suffer imprisonment, or such other punishment as is hereinafter mentioned.

PART III.

REGULATIONS AS TO PUNISHMENTS.

Punishments.

52. THE following punishments may be inflicted in Her Majesty's Navy:

(1) Death:

(2) Penal servitude:
(3) Dismissal with disgrace from Her Majesty's service:
(4) Imprisonment or corporal punishment:
(5) Dismissal from Her Majesty's service:
(6) Forfeiture of seniority as an officer for a specified time, or otherwise:
(7) Dismissal from the ship to which the offender belongs:
(8) Severe reprimand, or reprimand:
(9) Disrating a subordinate or petty officer:
(10) Forfeiture of pay, head money, bounty, salvage, prize money, and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs:
(11) Such minor punishments as are now inflicted according to the custom of the Navy, or may from time to time be allowed by the Admiralty:

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to infliction of punishments.

53. The following regulations are hereby made with respect to the infliction of punishments in Her Majesty's Navy:

(1) The Admiralty may, except in case of sentence of death, which shall only be remitted by Her Majesty, suspend, annul, or modify any sentence passed on any person subject to this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by the court-martial; but so that the punishment involved in any sentence be not increased by any such modification:
(2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two thirds of the officers present, concur in the sentence:
(3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by

the Admiralty, or by the commander-in-chief on a foreign station:

(4) The punishment of penal servitude may be inflicted for the term of life, or for any other term of not less than five years:

(5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from Her Majesty's service:

(6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money, and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to the offender, and an incapacity to serve Her Majesty again in any military, naval, or civil service, and may also in all cases be accompanied by a sentence of imprisonment:

(7) The punishment of imprisonment may be inflicted for any term not exceeding two years:

(8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term, not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement; and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods:

(9) A sentence of imprisonment may also be accompanied with a direction that the prisoner shall be kept to hard labour for all or any part of the term of imprisonment; and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour, or either of them:

(10) The punishment of imprisonment, whether on board ship or on shore shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment:

(11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted: No officer shall be subject to corporal punishment: No petty or non-commissioned officer shall be subject to corporal punishment, except in case of mutiny:

All other punishments authorized by this Act may be inflicted in the manner heretofore in use in the Navy.

Limitation of time for trials.

54. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence, or within one year after the return of such offender to the United Kingdom, where he has been absent from the United Kingdom during such period of three years.

Scale of punishment.

55. SUBJECT to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale herein-before mentioned; but corporal punishment shall be deemed equal in degree to imprisonment, and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.

Corporal punishment.

Authorities having power to try offences.

56. ANY offence triable under this Act may be tried and punished by court-martial; and any offence triable under this Act, not committed by an officer (except in the cases by this Act expressly provided for), and not hereby made capital, may, under such regulations as the Admiralty may from time to time issue, be summarily tried and punished by the officer in command of the ship to which such offender belongs, subject to the following restrictions; (that is to say,)

(1) The commanding officer shall not have power to award the punishment of penal servitude:

(2) The commanding officer shall not have power to sentence a deserter to imprisonment for a longer period than three calendar months, or to sentence any other offender to imprisonment for a longer period than six weeks, or to award solitary confinement for more than ten days at a time, with intervals of not less than seven days between two successive periods of solitary confinement:

(3) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the prisoner reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

Authorities empowered to impose

57. WITH respect to the authorities by whom certain punishments may be imposed, the following provisions shall take effect; namely,

punishments to adhere to provisions herein named.

(1) With respect to any subordinate officer, the punishment of forfeiture of time or seniority may be imposed as follows; namely, by the Admiralty for any time not exceeding twelve months, by the commander-in-chief on a foreign station for any time not exceeding six months, or by the commanding officer for any time not exceeding three months:

(2) With respect to any subordinate officer, the commander-in-chief on a foreign station shall have power to impose the punishments numbered (7), (8), and (9) in the scale herein-before contained.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-martial.

Constitution of courts-martial.

58. THE following regulations are hereby made with respect to courts-martial:

(1) A court-martial shall consist of not less than five nor more than nine officers:

(2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, or lieutenant of Her Majesty's Navy on full pay:

(3) A court-martial shall not be held unless at least three of Her Majesty's ships, not being tenders, and commanded by captains, commanders, or lieutenants of Her Majesty's Navy on full pay, are together at the time when such court-martial is held:

(4) No officer shall sit on a court-martial who is under twenty-one years of age:

(5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank:

(6) No court-martial for the trial of a captain in Her Majesty's Navy shall be duly constituted unless the president is a captain, or of higher rank, and the other officers composing the court are commanders, or officers of higher rank:

(7) No court-martial for the trial of any person below the rank of captain in Her Majesty's Navy shall be duly constituted, unless the president is a captain, or of higher rank, nor unless in addition to the

president there are two other members of the court of the rank of commander, or of higher rank:

(8) The prosecutor shall not sit on any court-martial for the trial of a prisoner whom he prosecutes:

(9) The Admiralty shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of Her Majesty's Navy on full pay, authorizing him to order courts-martial to be held for the trial of such offences:

(10) An officer holding a commission from the Admiralty to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself, on full pay and in command of one or more of Her Majesty's ships or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose:

(11) If any officer holding a commission from the Admiralty to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be recalled, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the Admiralty, have the same power to order courts-martial as the first-mentioned officer was invested with:

(12) If any officer holding a commission from the Admiralty to order courts-martial, and having the command of any fleet or squadron of Her Majesty's ships in foreign parts, shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first-mentioned case the commanding officer of the squadron or detachment ordered on such separate service, and, in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of Her Majesty's ships on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be); and every such authority shall continue in force until revoked, or until the officer holding it returns to the United Kingdom, or until

he comes into the presence of a superior officer empowered to order courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires:

(13) The officer ordering a court-martial shall not sit thereon:

(14) The president of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president:

(15) No commander or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander or lieutenant being required to sit, or sitting, thereon, under any circumstances) and when any commander or lieutenant sits on any court-martial, the members of it shall not exceed five in number:

(16) Subject to the foregoing regulations, whenever a court-martial shall be held, the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captains being superintendents of Her Majesty's dockyards shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the Admiralty.

Proceedings of Courts-martial.

Courts-martial, where to be held.

59. A COURT-MARTIAL under this Act shall be held on board one of Her Majesty's ships or vessels of war.

As to time of sittings of courts-martial.

60. A COURT-MARTIAL held in pusuance of this Act shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident; and its proceedings shall not be delayed by the absence of any member, so that not less than four are present; and no member shall absent himself unless compelled so to do by sickness or other just cause, to be approved of by the other members of the court; and if any member of a court-martial shall absent himself therefrom, in contravention of this section, he shall be dismissed from Her Majesty's service, or shall suffer such other punishment as may be awarded by a court-martial.

Penalty on members absenting themselves.

Appointment of officiating judge advocate.

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the Admiralty, or by the commander-in-chief of any fleet or squadron, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

Administration of oaths to witnesses.

Objections by prisoners to constitution of courts.

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the prisoner, who shall be asked if he objects to being tried by any member of the court; if the prisoner shall object to any member, the objection shall be decided by the court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations herein-before contained.

The prisoner may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final; and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

Oaths to be administered to members of courts-martial.

63. Before the court shall proceed to try the prisoner, the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the court the following oath; that is to say,

'I, , do swear, that I will duly administer justice according 'to law, without partiality, favour, or affection; and I do further swear, 'that I will not on any account, at any time whatsoever, disclose or discover 'the vote or opinion of any particular member of this court-martial, unless 'thereunto required in due course of law. So help me GOD.'

Oath to be administered to judge advocate, &c.

64. As soon as the said oath shall be administered to the members of the court-martial, the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocatete, the following oath:

'I, , do swear, that I will not upon any account, at any 'time whatsoever, disclose or discover the vote or opinion of any particular 'member of the court-martial, unless thereunto required in due course of 'law. So help me GOD.'

Power to Admiralty to frame general orders for

65. The Admiralty may from time to time frame general orders for altering and regulating (subject to the provisions of this Act) the procedure and practice of courts-martial under this Act; and any such general orders

practice of courts-martial, subject to approval by Her Majesty in Council.

shall have full effect if and when approved by Her Majesty in Council, on a report of the Judicial Committee of the Privy Council, but not sooner or otherwise; and every Order in Council made under this section shall be laid before both Houses of Parliament.

Summoning witnesses.

66. EVERY person, civil, naval, and military, who may be required to give evidence before a court-martial, shall be summoned by writing under the hand of one of the Secretaries of the Admiralty, or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial; and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or if such court be not sitting, then by any judge of the Superior Courts of Westminister or Dublin, or the Court of Session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such court-martial; and all witnesses so duly summoned as aforesaid who make default in attending on such courts, or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence, or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence, shall upon certificate thereof under the hand of the president of such court-martial be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Session, or sheriff depute or stewarts depute, or their respective substitutes, within their several shires and stewartries in Scotland, or courts of law in the East or West Indies, or in any of Her Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively, upon complaint made, in like manner as if such witness after having been duly summoned and subpœnaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn, or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence; or, if the court-martial shall think fit, in case any such person belong to Her Majesty's Navy, being called upon to give evidence at any court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, not longer than three months in case of such refusal, neglect, or prevarication, nor longer

Witnesses privileged from arrest.

Attachment of witnesses refusing to attend or answer, &c.

Imprisonment of witnesses belonging to the Navy refusing to attend, &c.

than one month in the case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the Admiralty, or of the president of the court-martial on a foreign station. Expenses of persons not subject to this Act summoned as witnesses.

67. Every person who upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act shall wilfully and corruptly give false evidence shall be deemed guilty of wilful and corrupt perjury; and every such offence, wheresoever committed, shall be triable and punishable in England; and where any such offence committed out of England is tried in England, all statutes and laws applicable to cases of perjury shall apply to the case. Penalty on persons giving false evidence.

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the Admiralty thereupon are known; and it shall be lawful for the Lords of the Admiralty to give orders for the safe custody of such person during Her Majesty's pleasure in such place and in such manner as they shall think fit. Custody of persons found insane at trial.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the commander-in-chief or senior officer, who shall transmit them to the Secretary of the Admiralty for the time being; and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence at any time not sooner than six months after the trial if the same takes place in the Mediterranean, three months if at any other naval station within Europe, and twelve months if elsewhere (upon payment for the same at the rate of fourpence per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court. *Reports of proceedings of courts-martial to be transmitted.* Persons tried entitled to copies of proceedings.

Part V.

Penal Servitude and Prisons.

Penal Servitude.

70. Whenever any sentence of death shall be commuted for penal servitude, or whenever sentence of penal servitude shall be passed upon any offender by any court-martial, and such sentence, or any part thereof, is Carrying into effect sentence of penal servitude.

intended to be carried into effect, the Admiralty shall cause the same to be notified in writing to any justice of the Queen's Bench, Common Pleas, or baron of the Exchequer; and thereupon such justice or baron shall make an order for the penal servitude of such offender upon the terms and for the time specified in such notification, and shall do all such other acts consequent upon such notification as any such justice or baron is or may be authorized to make or do by any statute or statutes in force at the time of making any such order in relation to penal servitude of offenders sentenced by courts of criminal jurisdiction to penal servitude; and such order and other acts to be so made and done as aforesaid shall be obeyed and executed by such person in whose custody such offender may at that time be, and by all other persons whom it may concern, and shall be as effectual and have all the same consequences as any order made under the authority of any statute relating to penal servitude with respect to any offender in such statute mentioned; and every sheriff, gaoler, keeper, governor, or superintendent whom it may concern, and all constables and other persons, shall be bound to obey the aforesaid order and orders, and be assistant in the execution thereof, and be liable to the same punishment for disobedience to or for interrupting the execution of such order as they would be if the same had been made under the authority of any such statute; and every person so ordered to be kept in penal servitude shall be subject to all the penalties and provisions made by law, and in force for the time being, concerning persons under sentence of penal servitude, or receiving Her Majesty's pardon on condition of penal servitude; and from the time when such order of penal servitude is made, every law in force touching the escape of felons, or their afterwards returning or being at large without leave, shall apply to such offender, and to all persons aiding, abetting, contriving, or assisting in any escape or intended escape, or the returning without leave of any such offender; and the judge or baron who makes an order for penal servitude as aforesaid shall direct the notification of the Admiralty, and his own order made thereupon, to be filed and kept of record in the office of the clerk of the Crown of the Court of Queen's Bench; and the said clerk shall have a fee of two shillings and sixpence only for filing the same, and shall, on application, deliver a certificate in writing (not taking more than two shillings and sixpence for the same) to such offender, or to any person applying in his or the Admiralty's behalf, showing the Christian and surname of such offender, his offence, the place where the court was held before which he was convicted, the sentence, and the conditions on which the order of penal servitude was made; and such certificate shall be sufficient proof of the conviction and of the sentence of such offender, and also of the terms on which such order for his penal

Evidence of conviction and sentence.

servitude was made, in any court and in any proceeding wherein it may be necessary to inquire into the same.

Disposal of offender after sentence of penal servitude.

71. When any sentence of death shall have been commuted for penal servitude, or when any person subject to this Act shall have been condemned to penal servitude, it shall be lawful for the Admiralty, or any commander-in-chief on any foreign station, or the commanding officer of the ship to which such person belongs or has belonged, to cause him to be detained and conveyed to any one of Her Majesty's ships, or any gaol or prison, there to remain in safe custody until he is removed therefrom by the order of the Admiralty or any such commander-in-chief or other due authority, or under an order for his penal servitude to be made by some justice of the Queen's Bench or Common Pleas or baron of the Exchequer as aforesaid; and a certificate of his sentence (such certificate to be signed by the Secretary of the Admiralty, or by any such commander-in-chief, or such commanding officer,) shall be a sufficient authority to the commanding officer of the ship to which he may be sent, or to the governor, keeper, or superintendent of the gaol or prison, to receive and detain him.

Allowance for subsistence of offender conveyed to any prison not being a naval prison appointed under this Act.

72. In case any such offender shall be conveyed to any prison not being a naval prison appointed by virtue of this Act, an allowance such as the Admiralty shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender during his detention therein, and such allowance shall be paid by order of the Admiralty upon production by the said governor, keeper or superintendent of a declaration, to be made by him before one of Her Majesty's justices of the peace of such county, of the number of days during which the offender has been so detained and subsisted in such gaol or prison.

Sentence of imprisonment or penal servitude on offender already under sentence for previous offence.

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of imprisonment or of penal servitude passed upon him by a court-martial for a former offence, the court may award sentence of imprisonment or penal servitude for the offence for which he is under trial, to commence at the expiration of the imprisonment or penal servitude to which he has been previously sentenced, although the aggregate of the terms of imprisonment or penal servitude may exceed the term for which either of those punishments could be otherwise awarded.

Prisons.

Commencement of term of penal servitude or imprisonment,

74. Every term of penal servitude or of imprisonment in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded; and the place of imprisonment, whether the imprisonment was

and place of imprisonment.

awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the Admiralty, or by the commander-in-chief or senior officer present on any foreign station, and may be one of the naval prisons appointed under this Act, or any common gaol, house of correction, or military prison within Her Majesty's dominions.

Place of confinement may be changed.

75. WHENEVER it is deemed expedient, it shall be lawful for the Admiralty or any such commander-in-chief, by any order in writing, from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act; and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction shall, upon being furnished with a copy of such order of removal, attested by the Secretary of the Admiralty for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

Expenses of removal of offenders.

Allowance for subsistence of offenders not confined in naval prisons.

76. THE gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding one shilling a mile; and when any offender is not confined in a naval prison, the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the Admiralty shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence; and such sum shall be paid to the said gaoler or other person under the authority of the Admiralty, upon the application in writing made to the Secretary of the Admiralty by any justice for the county or place in which such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the prisoner is confined.

Amendment of 44 Geo. 3. c. 13. s. 1. as to conveyance and delivery of petty officers and seamen arrested on civil process and entitled to be discharged.

77. FROM and after the passing of this Act, section one of the Act of the forty-fourth year of the reign of King George the Third (chapter thirteen), "to prevent the desertion and escape of petty officers, seamen, and others "from His Majesty's service by means or under colour of any civil or criminal "process," shall be read and have effect as if the words "one shilling" were therein substituted for the words "two shillings"; and any such sheriff, gaoler, or other officer as therein mentioned shall, if required, deliver such petty officer, seaman or other person as therein mentioned to any person authorized to receive him, instead of conducting and conveying him as therein provided.

Proviso for discharge of prisoners undergoing imprisonment or delivery to naval custody for purpose of being brought before court-martial, either as witnesses or for trial.

78. WHENEVER any prisoner is undergoing imprisonment in pursuance of this Act, it shall be lawful for the Admiralty, or any commander-in-chief on any foreign station, or where an offender has been imprisoned by order of his commanding officer, for such commanding officer or the Admiralty, or any such commander-in-chief, to give an order in writing directing that the prisoner be discharged; and it shall also be lawful for the Admiralty, or any such commander-in-chief, and any officer commanding any of Her Majesty's ships, by order in writing, to direct that any such prisoner be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness, or for trial, or otherwise: and such prisoner shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

Time of detention in naval custody to be reckoned as imprisonment under sentence.

79. THE time during which any prisoner under sentence of imprisonment is detained in naval custody shall be reckoned as imprisonment under his sentence, for whatever purpose such detention takes place; and the governor, gaoler, keeper, or superintendent who shall deliver over any such prisoner shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

In case of insanity, prisoners to be removed to some lunatic asylum.

80. IF any person imprisoned by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the Admiralty shall by warrant direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the United Kingdom as they may judge proper for the unexpired term of his imprisonment; and if any such person shall in the same manner be certified to be again of sound mind, the Admiralty may issue a warrant for his being removed to such prison or place of confinement as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly.

Lunatic prisoners becoming sane to be removed back to prison.

Admiralty may set apart buildings and ships as naval prisons.

Powers of Admiralty as to such prisons.

Regulations for prisons.

Appointment of inspectors and officers.

81. THE Admiralty may set apart any buildings or vessels, or any parts thereof, as naval prisons, and any buildings or vessels or parts of buildings or vessels so set apart shall be deemed to be naval prisons within the meaning of this Act; and all powers and authorities with respect to county gaols or houses of correction which now are or which may hereafter be vested in any of Her Majesty's Principal Secretaries of State shall, with respect to all such naval prisons, belong to the Admiralty; and it shall be lawful for the Admiralty from time to time to make, alter, and repeal regulations for the government and superintendence of any such naval prison, and of the officers and servants thereof, and of offenders confined therein, and from time to time to appoint inspectors and all other necessary officers and servants for any such naval

Visitors.

prison, and, as occasion may arise, to remove the inspectors, officers, or servants of any such naval prison; and the senior officer at any port or place or on any station where there may be any such naval prison, or such senior officer and such other person and persons as the Admiralty may from time to time appoint, shall be a visitor or visitors of such prison; and every inspector, visitor, or officer having the charge or command of any such naval prison respectively shall, subject to such rules and regulations as may from time to time be made as aforesaid, have and exercise, in respect of such prison, and of the officers and servants thereof, and of the prisoners confined therein, all the powers and authorities as well in respect of administering oaths as otherwise which any inspector, visiting justice, or governor of a county gaol or house of correction may respectively exercise as such.

Powers of inspectors, visitors, and officers.

Penalties for aiding escape or attempt to escape of prisoners,

82. If any person shall convey or cause to be conveyed into any such naval prison any arms, tools, or instruments, or any mask or other disguise, to facilitate the escape of any prisoner, or by any means whatever shall aid any prisoner to escape or in an attempt to escape from such prison, whether an escape be actually made or not, such person shall be deemed guilty of felony, and upon being convicted thereof shall be imprisoned, with or without hard labour, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years; and if any person shall bring or attempt to bring into such prison, in contravention of the rules, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding twenty pounds and not less than ten pounds; and if any person shall bring into such prison, or to or for any prisoner, without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison to be in the possession of a prisoner, or shall throw into the said prison any such articles, or by desire of any prisoner, without the sanction of the said officer, shall carry out of the prison any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding five pounds; and if any person shall interrupt any officer of such prison in the execution of his duty, or shall aid or excite any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding five pounds, or if the offender be a prisoner, he shall, upon conviction thereof before two justices of the peace, or not less than three of the visitors of the prison, be liable to be sentenced for every such offence to be imprisoned, either with or without hard labour, and with or without solitary confinement, for any time not exceeding six calendar months, in addition to so much of the time for which he was originally sentenced as may be then unexpired; and every penalty which may be incurred under this section

for conveying prohibited articles into or out of prisons,

and for interrupting officers in execution of duty.

Recovery and

shall be recoverable in a summary manner; and such two justices or three visitors are hereby authorised to issue warrants of distress and sale of the offender's goods; and every such penalty shall be applied as the Admiralty shall direct, any law, statute, charter, or custom to the contrary notwithstanding. application of penalties.

83. EVERY governor, gaoler, and keeper of any prison, gaol, or house of correction, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one hundred pounds, to be recovered in a summary manner before two justices of the peace; and such two justices are hereby authorized to issue warrants of distress and sale of the offender's goods; and every such penalty shall be applied as the Admiralty shall direct, any law, statute, charter, or custom to the contrary notwithstanding. Penalty on gaolers, &c. refusing to receive or discharge prisoners. Recovery and application of penalties.

PART VI.

SUPPLEMENTAL PROVISIONS.

84. THIS Act may be cited for all purposes as The Naval Discipline Act, 1866. Short title.

85. EXCEPT as otherwise provided, this Act shall be in force within the United Kingdom; and as regards the United Kingdom the enactments described in the schedule to this Act shall be repealed from and after one calendar month from the passing hereof; and as regards elsewhere this Act shall be in force, and the said enactments shall be repealed, from and after six calendar months from the passing hereof. Extent and commencement of Act, and repeal of enactments in schedule.

86. IN the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction, Interpretation of terms.

"Admiralty," or "the Lords of the Admiralty," shall mean the Lord High Admiral for the time being of the United Kingdom of Great Britain and Ireland, and when there shall be no such Lord High Admiral in office, any two or more of the Commissioners for executing the Office of Lord High Admiral of the United Kingdom:

"Officer" shall mean an officer belonging to one of Her Majesty's ships and shall include a subordinate and a warrant officer, but shall not extend to petty and non-commissioned officers:

When the words "superior officer" are used in this Act, they shall be held to include all officers, including petty and non-commissioned officers.

Persons subject to this Act.

87. EVERY person in or belonging to Her Majesty's Navy, and borne on the books of any one of Her Majesty's ships in commission, shall be subject to this Act; and all other persons hereby made liable thereto shall be triable and punishable under the provisions of this Act.

Land forces embarked on Her Majesty's ships, how far subject to this Act.

88. HER Majesty's land forces, when embarked on board any of Her Majesty's ships, shall be subject to the provisions of this Act to such extent and under such regulations as Her Majesty, her heirs and successors, by any Order or Orders in Council, shall at any time or times direct.

Other persons on board, how far subject to this Act.

89. ALL other persons ordered to be received or being passengers on board any of Her Majesty's ships shall be deemed to be persons subject to this Act, under such regulations as the Admiralty may from time to time direct.

Provisions respecting discipline in hired ships in Her Majesty's service in war.

90. WITH respect to hired vessels in Her Majesty's service in time of war, being either armed or under the command of an officer in Her Majesty's naval service, the following provisions shall take effect if in any case the Admiralty think fit so to direct, and where such direction is given the same shall be specified in the ship's articles:

(1) Every person borne on the books of any such hired vessel shall be subject to this Act:

(2) Any offence committed by any such person shall be tried and punished as the like offence might be tried and punished if committed by any person in or belonging to Her Majesty's Navy, and borne on the books of any of Her Majesty's ships in commission:

(3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial:

(4) On application made to the Lords of the Admiralty, or to the commander-in-chief or senior officer of any of Her Majesty's ships or vessels of war abroad authorized to assemble and hold courts-martial, the Lords of the Admiralty, commander-in-chief, or senior officer (as the case may be) shall assemble and hold a court-martial for the trial of the offender:

(5) The officer commanding every such hired vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of Her Majesty's ships has for the time being in respect of the officers and crew thereof, or other persons on board the same:

(6) The naval commander-in-chief and senior naval officer in Her Majesty's service shall have the same powers over the officers and crew of every such hired vessel as they have for the time being over the officers and crew of any of Her Majesty's ships.

Crews of ships lost, destroyed, or taken.

91. WHEN any one of Her Majesty's ships shall be wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until her crew shall be regularly removed into some other of Her Majesty's ships of war, or until a court-martial shall have been held, pursuant to the custom of the Navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

All the officers and crew of lost ship may be tried by one court;

92. WHEN no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew or all the surviving officers and crew of any such ship, together, before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the matters then under inquiry; but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

or one or more may be tried by separate courts.

93. WHEN deemed necessary by the Admiralty, or any officer authorized to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

Separate courts for trial of offences subsequent to loss of ship.

94. FOR any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders.

Pay of crews of ships lost or taken.

95. WHEN any ship of Her Majesty shall be wrecked, lost, or otherwise destroyed, or taken by the enemy, if it shall appear by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well, and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of Her Majesty, or dying.

When ship of senior officer is lost, he

96. IF the ship of any officer ordered to command any two or more of Her Majesty's ships shall be wrecked, lost, or otherwise destroyed, such officer

shall continue in command of other ships under him, and may dispose of officers and crew of lost ship among such other ships.

shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command; and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command, or to distribute them among the other ships under his command, if more than one; and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respect as if his ship had not been wrecked, lost, or destroyed.

Restriction on arrest of seamen, &c. for debt.

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine, belonging to any ship of Her Majesty, by any warrant, process, or writ issued in any part of Her Majesty's dominions for any debt, unless the debt was contracted at a time when the debtor did not belong to Her Majesty's service, nor unless before the issuing of the warrant, process, or writ the plaintiff in the suit or some person on his behalf has made an affidavit in the court out of which it issued that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to Her Majesty's service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ.

Discharge from arrest of seaman, &c. arrested in contravention of preceding section.

98. If any petty officer or seaman, non-commissioned officer of marines or marine, is arrested in contravention of the provisions of the last foregoing section, the court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior officer, investigate the case on oath or otherwise, and if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour, with costs.

Part VII.

Saving Clause.

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Nothing to take away prerogative of the Crown, or rights or powers of Admiralty.

100. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Admiralty.

101. NOTHING in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in Her Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognizable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act. Act not to supersede authority of ordinary courts as to offences punishable by common or statute law.

THE SCHEDULE.

Enactments repealed.

11 Geo. 4 & 1 Will. 4. c. 20. in part.	An Act to amend and consolidate the laws relating to the pay of the Royal Navy . . . Section eighty.	in part; namely,—
10 & 11 Vict. c. 62 . . in part.	An Act for the establishment of naval prisons, and for the prevention of desertion from Her Majesty's Navy . . . . . Section eleven.	in part; namely,—
27 & 28 Vict. c. 119 . .	The Naval Discipline Act, 1864.	
28 & 29 Vict. c. 115 . .	The Naval Discipline Act Amendment Act, 1865.	

29 & 30 VICTORIA. A. D. 1866.

CHAPTER CXV.

An Act to provide for the Government of the "Straits Settlements."

[*10th August 1866.*]

WHEREAS the islands and territories known as the "Straits Settlements," namely, Prince of Wales' Island, the Island of Singapore, and the town and fort of Malacca, and their dependencies, were heretofore part of the territories in the possession and under the government of the East India Company, and became vested in Her Majesty as a part of India by virtue and subject to the provisions of the Act of the twenty-first and twenty-second year of Her Majesty, chapter one hundred and six, intituled "An Act for the better government of India": And whereas it is expedient that the said settlements and their dependencies should cease to form part of India, and should be placed under the government of Her Majesty as part of the colonial possessions of the Crown: And whereas it may be hereafter expedient to include the colony of Labuan within the government of the said settlements: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons,

in this present Parliament assembled, and by the authority of the same, as follows:

Straits Settlements shall cease to be part of India on coming into operation of this Act. Provision for enforcement of claims against government of settlements.

1. It shall be lawful for Her Majesty, by Order to be by her made with the advice of Her Privy Council, to declare that this Act shall come into operation at a time to be specified in such Order in Council; and at such time the said settlements shall cease to be part of India for the purposes and within the meaning of the aforesaid Act; and it shall be further lawful for Her Majesty by any such Order to make provision respecting the enforcement by or against the government of the said settlements of all or any of such debts, claims, and obligations as might, if this Act had not passed, have been enforced by or against the government of India in connexion with the administration of the said settlements.

Power to Her Majesty in Council to make laws, constitute courts, &c.

2. From and after the coming into operation of this Act, it shall be lawful for Her Majesty, by Order or Orders to be by her from time to time made with the advice of her said Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such courts and officers, and to make such provisions and regulations for the proceedings in such courts, and for the administration of justice, and for the raising and expenditure of the public revenue, as may be deemed advisable for the peace, order, and good government of Her Majesty's subjects and others within the said settlements, or within any territory which may at any time be part of or dependent upon the same, any law, statute, or usage to the contrary in anywise notwithstanding.

Power to Her Majesty to delegate her powers and authorities to resident officers, and also her powers and authorities as to Labuan.

3. It shall be lawful for Her Majesty, from time to time, by any letters patent under the Great Seal of the United Kingdom, or by any instructions under Her Majesty's Signet and Sign Manual accompanying and referred to in any such letters patent, to delegate to any three or more persons within the said settlements, or within any part or dependency thereof, the powers and authorities so vested in Her Majesty in Council as aforesaid, either in whole or in part, and upon, under, and subject to all such conditions, provisoes, and limitations as by any such letters patent or instructions as aforesaid Her Majesty shall see fit to prescribe; and, subject as aforesaid, to empower such three or more persons to exercise in respect to the Island of Labuan and its dependencies all or any of the powers and authorities hereinbefore vested in Her Majesty in respect to the said settlements: Provided always, that, notwithstanding any such delegation or grant of authority as aforesaid, it shall still be competent to Her Majesty in Council in manner aforesaid to exercise all the powers and authorities, either by virtue of this Act or otherwise, vested in Her Majesty in Council.

Power of Her Majesty in Council to continue exerciseable.

Existing laws

4. Until otherwise provided by Her Majesty in Council, or by such three

or more persons as aforesaid, all laws or regulations (except the aforesaid Act of Parliament) which, when this Act shall come into operation, shall be in force in the said settlements and their dependencies, and all proceedings of any court of justice had or to be had therein, shall be and continue to be of the same force and effect, and all judicial and other officers who, when this Act shall come into operation, shall be lawfully exercising their offices in the said settlements and their dependencies, shall continue to have and exercise the same functions and authorities therein, as if this Act had not been passed. and officers preserved.

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30 & 31 VICTORIA. A. D. 1867.

CHAPTER XXXIV.

An Act for limiting the Period of Enlistment in Her Majesty's Army.

[*20th June 1867.*]

WHEREAS it is expedient to alter the periods of enlistment now in use in Her Majesty's land forces:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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2.[a] ANY person who now has or may hereafter have completed at least two thirds of the first term of his enlistment may at any time thereafter, with the approbation of his commanding officer or other competent military authority, be re-engaged for such a period as shall complete a total period of twenty-one years in Her Majesty's service. Renewal of enlistment.

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4.[b] ANY soldier whose period of enlistment or of total service shall expire while he is serving on any foreign, colonial, or Indian station may be detained, and his service may be prolonged, for such further period as shall be directed by the commanding officer at the station there, not exceeding twelve months; but at the expiration of such prolonged service, or sooner, if the said commanding officer shall see fit, the soldier shall, unless he desires to remain there, be sent home at the public charge as in the case of soldiers invalided, with all convenient speed, and after his arrival he shall be discharged. On expiration of period of enlistment or service, soldiers on foreign stations to be sent home and discharged; but service may be prolonged for 12 months.

5. IF any such soldier being in any of Her Majesty's colonies or possessions abroad desires to remain and to claim his discharge there, he shall, if such be Soldiers in colonies or possessions

[a, b] Sections 2 and 4 are repealed, except as to soldiers enlisted before 9th August 1870, Stat. Law Rev. Act, 1875.

may claim their discharge and be allowed to remain there.

his desire, give notice thereof to the governor through the commanding officer, whereupon it shall be lawful for such governor, if he sees fit, with the consent of the commanding officer, to permit such soldier to remain in such colony as a discharged soldier, and such soldier shall have no claim thereafter to be conveyed to his home in the United Kingdom or elsewhere.

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Soldiers charged with offences at time of completion of service not to be discharged until they have undergone trial and punishment, and to remain subject to Mutiny Act and Articles of War.

7. [EVERY soldier who shall have completed his period of service according to the provisions of this Act shall be entitled to his discharge, unless at the time of the expiration of such period of service he stands charged with the commission of any offence, in which case his period of service shall be prolonged, and his discharge deferred, until he shall have undergone his trial by court-martial, and any punishment awarded against him.[a]] Every soldier, until he has received his discharge, shall remain subject to all the provisions of any Act that may be in force for punishing mutiny and desertion, and any Articles of War made in pursuance thereof.

This Act to apply to all persons enlisting or re-enlisting, or soldiers re-engaging.

8. AFTER the passing of this Act every person enlisting or re-enlisting or any soldier re-engaging into Her Majesty's service shall be subject to the provisions of this Act; . . . . . .

Forms of attestation, &c.

9. THE forms to be used on the attestation of a soldier, and on renewing his service, or on re-engaging, under this Act, shall be such as are set forth in the schedule hereto, or as are prescribed in the Mutiny Act for the time being in force.

As to transfer of recruits after attachment to regiments.

10. . . . . [after the recruit shall have been attached to any regiment, he shall not be removed or transferred therefrom save and except under the provisions of the Mutiny Act for the time being in force.[c]]

Short title.

11. THIS Act shall be cited as The Army Enlistment Act, 1867.

SCHEDULE referred to in the foregoing Act.[d]

. . . . . .

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[a] The part of section 7 inclosed in brackets is repealed, except as to soldiers enlisted before 9th August 1870, Stat. Law. Rev. Act, 1875.

[b] So much of section 9 and the schedule as relates to attestation is repealed, Stat. Law Rev. Act, 1875; and the residue of the section and schedule is also repealed, except as to soldiers enlisted before 9th August, 1870, Stat. Law Rev. Act, 1875.

[c] The part of section 10 inclosed in brackets is repealed, except as to soldiers enlisted before 9th August 1870, Stat. Law Rev. Act, 1875.

[d] See note to section 9.

DECLARATION to be made by a Soldier, or Person having been a Soldier, on renewing his Service.

I, , do declare, that I am at present [*or* was, *as the case may be*,] in Captain company in the Regiment [*the foregoing portion of this declaration may be altered to suit each particular case*]; that I enlisted on the day of for a term of years; that I am of the age of years; and that I will serve Her Majesty, her heirs and successors, for a further term of years [*to be filled up with such number of years as shall be required to complete a total service of twenty-one years in the Army*], provided my services should so long be required, and also for such further term, not exceeding twelve months, as shall be directed by the commanding officer on any foreign station.

Declared before me———————

———————*Signature of Soldier.*

———————*Signature of Witness.*

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30 & 31 VICTORIA. A. D. 1867.

CHAPTER XLV.

An Act to extend and amend the Vice-Admiralty Courts Act, 1863.

[*15th July 1867.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as The Vice-Admiralty Courts Act Amendment Act, 1867.

Act to be read with 26 & 27 Vict. c. 24.

2. THIS Act shall be read as one Act with the Vice-Admiralty Courts Act, 1863.

Interpretation of terms.

3. IN the interpretation and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall havethe respective meanings herein-after assigned to them; that is to say,

"Judge" shall mean the person lawfully appointed by the Admiralty to be judge of any Vice-Admiralty Court, or, in default of such appointment, the chief justice or principal judicial officer, or the person for the time being lawfully authorized to act as the chief justice or principal judicial officer, in the British possession in which such Court is established:

"Judicial powers" shall mean all powers and authorities which may be lawfully exercised by, and all duties by law imposed upon, any such judge in the trial, hearing, or progress of any cause:

"Ministerial powers" shall mean all powers and authorities which may be lawfully exercised by, and all duties by law imposed upon, any such judge, not included under the term "judicial powers":

"Sit" or "sitting" shall mean sit or sitting for the exercise of judicial powers, whether in Court or in chambers.

Tenure of office of Vice-Admiral.

4. On the Governor of any British possession, who is also Vice-Admiral thereof, vacating the office of Governor of such possession, the office of Vice-Admiral of the same possession shall thereupon be deemed to be also vacant within the meaning of the third section of the Vice-Admiralty Courts Act, 1863.

Judge may appoint deputy judges.

5. The judge of any Vice-Admiralty Court may from time to time, with the approval in writing of the Governor of the British possession in which the Court is established, appoint one or more deputy judge or judges to assist or represent him in the execution of his judicial powers.

Judicial powers of deputy judges.

6. It shall be lawful for any such deputy judge to exercise all the judicial powers of the judge; and all acts done by such deputy judge shall be as valid and effectual, to all intents and purposes, as if they had been done by the judge; and all orders or decrees made by such deputy judge shall be subject to the same right of appeal in all respects as if they had been made by the judge.

Orders to be subject to appeal.

Deputy judges may sit separately, and at same time as judge or other deputies.

7. Any deputy judge may sit at the principal seat of government or elsewhere in the possession at the same time that the judge or any other deputy judge is sitting, and either at the same or at any other place in such possession, and whether the judge is or is not at that time within the possession.

Judge may sit with deputy judges.

8. The judge may, if he thinks fit, require any such deputy judge or judges to sit with him in the same Court, and in such case the decision of the majority, or, if they are equally divided in opinion, the decision of the judge, shall be the decision of the Court; and such decision shall be subject to the same right of appeal in all respects as if it had been made by the judge alone.

Decisions to be subject to appeal.

Judge to regulate proceedings before deputy judges, and division of business, &c.

9. The judge may direct at what place and time any such deputy judge shall sit, and what causes shall be heard before him, and generally make such arrangements as to him shall seem proper as to the division and despatch of the business of the Court.

Tenure of office of deputy judges.

10. The judge may, if he thinks fit, with the approval in writing of the Governor, at any time revoke the appointment of any such deputy judge or judges; but the appointment shall not be determined by the occurrence of a vacancy in the office of the judge.

Judge may delegate ministerial powers.

11. THE judge may, if he thinks fit, from time to time delegate all or any of his ministerial powers to any such deputy judge or judges.

Judge may appoint deputy registrars and marshals. Tenure of office.

12. THE judge may from time to time, if he thinks fit, appoint any competent persons to act respectively as deputy registrars and deputy marshals of the Court, and may, if he thinks fit, at any time revoke any such appointment; but the appointment shall not be determined by the occurrence of a vacancy in the office of the judge.

Admiralty may revoke appointments.

13. NOTWITHSTANDING anything contained in this Act, it shall be lawful for the Admiralty, if they think fit, at any time to revoke the appointment of any deputy judge, deputy registrar, or deputy marshal appointed under this Act.

Deputies entitled to receive fees.

14. ANY deputy judge, deputy registrar, or deputy marshal appointed under this Act shall be entitled to the same fees in respect of any duty performed by him as would be lawfully payable to the judge, registrar, or marshal respectively for the performance of the same duty.

Barristers and solicitors entitled to practise in Vice-Admiralty Courts.

15. ALL persons entitled to practise as advocates, barristers-at-law, proctors, attorneys-at-law, or solicitors in the Superior Courts of a British possession shall be entitled to practise in the same respective capacities in the Vice-Admiralty Court or Courts of such possession, and shall have therein all the rights and privileges respectively belonging to advocates, barristers-at-law, proctors, attorneys-at-law, and solicitors, and shall in like manner be subject to the authority of the person for the time being lawfully exercising the office of judge of such court.

Her Majesty may authorize establishment of Vice-Admiralty Courts in possessions having legislative powers. Jurisdiction of existing Courts confirmed.

16. IT shall be lawful for Her Majesty to empower the Admiralty, by commission under the Great Seal, to establish one or more Vice-Admiralty Courts in any British possession, notwithstanding that such possession may have previously acquired independent legislative powers; and the jurisdiction and authority of all the existing Vice-Admiralty Courts are hereby declared to be confirmed, to all intents and purposes, notwithstanding that the possession in which any such Court has been established may at the time of its establishment have been in possession of legislative powers.

Recited Act and this Act to extend to Courts in the Straits Settlements.

17. THE Vice-Admiralty Courts Act, 1863, shall, together with this Act, apply to any Vice-Admiralty Court now established or hereafter to be established in the Straits Settlements.

26 & 27 Vict. c. 24. s. 23. extended to appeals from Vice-Admiralty Courts in Indian possessions.

18. THE limitation of the time allowed for appeals contained in the twenty-third section of the Vice-Admiralty Courts Act, 1863, shall be held to apply to all decrees or orders pronounced in any Vice-Admiralty Court now established or hereafter to be established in any of Her Majesty's possessions in India.

30 & 31 VICTORIA. A. D. 1867.

CHAPTER CXXIV.

An Act to amend the Merchant Shipping Act, 1854.

[*20th August 1867.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Power to Governors, &c. in British possessions to make regulations as to supply of lime or lemon juice, &c.

6. IN any British possession out of the United Kingdom the Governor or officer administering the government for the time being shall, subject to the laws of such possession, have power to make regulations concerning the supply within such possession of lime or lemon juice and anti-scorbutics for the use of ships; and any lime or lemon juice or anti-scorbutics duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.

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Rules for medical inspection of seamen.

10. THE following rules shall be observed with respect to the medical inspection of seamen; that is to say,

(1) At any port where there is a local marine board the local marine board, and at other ports in the United Kingdom the Board of Trade, may appoint a medical inspector of seamen:

(2) Such medical inspector of seamen shall, on application by the owner or master of any ship, examine any seaman applying for employment in such ship, and shall give to the superintendent of the Mercantile Marine Office a report under his hand stating whether such seaman is in a fit state for duty at sea, and a copy of such report shall be given to the master or owner of the ship:

(3) The master or owner applying for such inspection shall pay to the superintendent such fees as the Board of Trade direct, and such fees shall be paid into and form part of the Mercantile Marine Fund:

(4) The said medical inspectors shall be remunerated for their services as the Board of Trade may direct, and such remuneration shall be paid out of the Mercantile Marine Fund:

(5) In British possessions out of the United Kingdom the Governor or other officer administering the government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.

Jurisdiction for trial of offences by British subjects on board British ships, or foreign ships to which they do not belong.

11. If any British subject commits any crime or offence on board any British ship, or on board any foreign ship to which he does not belong, any court of justice in Her Majesty's dominions, which would have had cognizance of such crime or offence if committed on board a British ship within the limits of the ordinary jurisdiction of such court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid.

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30 & 31 VICTORIA. A. D. 1867.

Chapter CXXXII.

An Act to remove Doubts as to the Power of Trustees, Executors, and Administrators to invest Trust Funds in certain Securities, and to declare and amend the Law relating to such Investments.

[*20th August 1867.*]

22 & 23 Vict. c. 35. s. 32.

Whereas by an Act passed in the session holden in the twenty-second and twenty-third years of Her present Majesty, chapter thirty-five, "to further amend the law of property, and to relieve trustees," it is enacted, that "when a trustee, executor, or administrator shall not by some instruments creating his trust be expressly forbidden to invest any trust fund on "real securities in any part of the United Kingdom, or on the stock of the "Bank of England or Ireland, or on East India stock, it shall be lawful for "such trustee, executor, or administrator to invest such trust fund on such "securities or stock, and he shall not be liable on that account as for a breach "of trust, provided that such investment shall in other respects be reasonable "and proper":

And whereas doubts have arisen as to the legal effect and signification of the words "East India stock" in the said Act mentioned:

Be it therefore enacted and declared by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Meaning of term "East India stock" in recited Act.

1. The words "East India stock" in the said Act passed in the session holden in the twenty-second and twenty-third years of Her Majesty, chapter thirty-five, shall include and express as well the East India stock which existed previously to the thirteenth day of August one thousand eight hundred and fifty-nine, when the said Act received the assent of Her Majesty,

as East India stock charged on the revenues of India, and created under and by virtue of any Act or Acts of Parliament which received Her Majesty's assent on or after the thirteenth day of August one thousand eight hundred and fifty-nine; and it shall be lawful for every trustee, executor, or administrator to invest any trust fund in his possession or under his control in the stock created by the last-mentioned Act or Acts to the same extent, and for the same purposes and objects, as he can now invest such trust fund in the East India stock which existed previously to the thirteenth day of August one thousand eight hundred and fifty-nine.

Trustees may invest in any securities interest whereon is guaranteed by Parliament.

2. It shall be lawful for every trustee, executor, or administrator to invest any trust fund in his possession or under his control in any securities the interest of which is or shall be guaranteed by Parliament to the same extent and in the same manner as he may invest such trust fund in such securities as aforesaid.

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31 & 32 VICTORIA. A. D. 1868.

Chapter XXVI.

An Act to enable certain guaranteed Indian Railway Companies to raise Money on Debenture Stock. [*29th May 1868.*]

Whereas the railway companies severally known as the Great Indian Peninsula Railway Company, the East Indian Railway Company, the Madras Railway Company, the Bombay, Baroda, and Central India Railway Company, the Scinde Railway Company, the Eastern Bengal Railway Company, and the Oudh and Rohilcund Railway Company, Limited, were constituted and incorporated by Acts of Parliament, or by certificate under Act of Parliament, for the purpose of constructing, maintaining, and working railways in India; and the said companies have, under powers vested in them by their Acts, or otherwise vested in them, entered into terminable contracts and arrangements with the East India Company, or with the Secretary of State in Council of India, with respect to their undertakings, and they have in exercise of such powers, with the sanction of the East India Company, or the Secretary of State in Council of India, raised capital by the issue of shares or stock, and have borrowed money for their undertakings on the security of mortgages or bonds:

And whereas it is expedient that each of the said companies should be empowered to create, with the sanction of the Secretary of State in Council of India, debenture stock in lieu of borrowing, or in substitution for or for the discharge of mortgages or bonds:

Be it therefore enacted by the Queen's most excellent Majesty, by and

with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to Indian railway companies to create and issue debenture stock, with sanction of Secretary of State in Council of India, and of shareholders, in lieu of borrowing on mortgage or bond.

1. EACH of the said companies may from time to time, with the sanction of the Secretary of State in Council of India, and of three-fifths of the votes of its shareholders and stockholders entitled to vote in that behalf at meetings of the company, present in person or by proxy at any extraordinary meeting convened with notice of this purpose, raise all or any part of the money which for the time being the company has raised or is authorized to raise on mortgage or bond by the creation and issue at such times, in such amounts and manner, on such terms, at such price, subject to such conditions, and with such rights and privileges, as the Secretary of State in Council of India shall think fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the company on mortgage or bond, or which the company may from time to time have power to raise on mortgage or bond, and may, with such sanction of its shareholders and stockholders as aforesaid, attach to the stock so created such fixed and perpetual irredeemable, redeemable, variable, or other interest, at such rate, payable half-yearly or otherwise, and commencing at once or at any future time or times, when and as the debenture stock shall be issued or otherwise, as the Secretary of State in Council of India shall think fit.

The following provisions to apply to debenture stock.

2. ALL the provisions following shall apply to every case of one of the said companies exercising the power herein-before given for raising money by the creation and issue of debenture stock; (that is to say,)

Stock to be a charge in priority to other stock, and transmissible and transferable as personal estate.

1. The debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company prior to all other stock or shares of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate.

Interest to be a charge in priority to interest on other stock. Holders to rank equally as between themselves.

2. The interest on debenture stock shall have priority of payment over all dividends or interest on any other stock or shares of the company, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock, but the holders of debenture stock shall not as among themselves be entitled to any preference or priority.

Register of stock.

3. The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several

persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and any instalments by which the price or subscription for any debenture stock may be made payable shall be recoverable as calls are recoverable under "The Companies Clauses Consolidation Act, 1845."

Recovery of instalments by which the price is made payable.

Company to deliver certificates to holders.

4. The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture held by him, and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, mutatis mutandis, to certificates of debenture stock.

Mortgagees, or power of raising by mortgage money not raised under this Act, not to be affected.

5. Nothing herein contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or bond, so far as such power is not by this Act expressly extinguished; but the holders of all such mortgages and bonds shall during the continuance thereof respectively be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if this Act had not been passed.

Holders of stock not to vote, but to have rights of mortgagees, except right to repayment of principal, unless the company agree to repay at a fixed time.

6. The debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification with reference to the government thereof, but shall in all respects not otherwise by this Act provided for be considered as entitling the holders to the rights and powers of mortgagees of the undertaking, other than the right to require payment of the principal money paid up in respect of the debenture stock: Provided always, that if on the issue of any such stock the company shall have agreed to repay the principal money at a fixed time, the holders thereof shall be entitled to be repaid their principal money at such fixed time.

Application of money raised,

subject to supervision of Secretary of State.

7. The money raised by debenture stock shall be applied exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock: Provided always, that the receipt, disposal, and application of all monies raised by the debenture stock shall be at all times and in all respects subject to the supervision, direction, and control of the Secretary of State in Council of India.

Separate accounts to be kept.

8. Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account of debenture stock, and how much money borrowed or owing on mortgage or bond

for which they have power so to borrow has been paid off by debenture stock, or raised thereby instead of being borrowed on mortgage or bond.

9. The powers of borrowing and reborrowing by the company shall, to the extent of the nominal amount of the debenture stock for the time being issued, be extinguished. Borrowing powers extinguished to extent of amount of debenture stock issued.

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31 & 32 VICTORIA. A. D. 1868.

CHAPTER XXIX.

An Act to amend the Law relating to Medical Practitioners in the Colonies.

[*29th May 1868.*]

WHEREAS by the thirty-first section of "The Medical Act," passed in the session holden in the twenty-first and twenty-second years of Her Majesty, chapter ninety, it is enacted as follows: "Every person registered under this Act shall "be entitled, according to his qualification or qualifications, to practise medicine "or surgery, or medicine and surgery, as the case may be, in any part of Her "Majesty's dominions, and to demand and recover in any court of law, with full "costs of suit, reasonable charges for professional aid, advice, and visits, and the "cost of any medicines or other medical or surgical appliances, rendered or supplied by him to his patients": And whereas it is expedient to amend the said enactment: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: 21 & 22 Vict. c. 90. s. 31.

1. THIS Act may be cited as "The Medical Act Amendment Act, 1868." Short title.

2. THE term "colony" shall in this Act include all of Her Majesty's possessions abroad in which there shall exist a legislature as herein-after defined, except the Channel Islands and the Isle of Man. Interpretation of terms.

The term "colonial legislature" shall signify the authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony.

3. EVERY colonial legislature shall have full power from time to time to make laws for the purpose of enforcing the registration within its jurisdiction of persons who have been registered under "The Medical Act," anything in the said Act to the contrary notwithstanding: Provided, however, that any person who has been duly registered under "The Medical Act" shall be entitled to be registered in any colony, upon payment of the fees (if any) required for such registration, and upon proof, in such manner as the said colonial legislature shall direct, of his registration under the said Act. Power to colonial legislatures to make laws to enforce registration in colonies of persons registered under "The Medical Act."

31 & 32 VICTORIA. A. D. 1868.

CHAPTER XXXVII.

An Act to amend the Law relating to Documentary Evidence in certain Cases.

[*25th June 1868.*]

WHEREAS it is expedient to amend the law relating to evidence: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

Mode of proving certain documents.

2. PRIMÂ facie evidence of any proclamation, order, or regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any proclamation, order, or regulation issued before or after the passing of this Act by or under the authority of any such department of the Government or officer as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or any of the modes herein-after mentioned; that is to say:

(1.) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation.

(2.) By the production of a copy of such proclamation, order, or regulation purporting to be printed by the Government printer, or, where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the legislature of such British colony or possession.

(3.) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the lords or others of the Privy Council, and, in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

Act to be in force in colonies.

3. SUBJECT to any law that may be from time to time made by the legislature of any British colony or possession, this Act shall be in force in every such colony and possession.

Punishment for forgery, or knowingly tendering forged documents in evidence.

4. IF any person commits any of the offences following; that is to say,—

(1) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under the authority of the legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or,

(2) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude for such term as is prescribed by the Penal Servitude Act, 1864, as the least term to which an offender can be sentenced to penal servitude, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Definition of terms.

5. THE following words shall in this Act have the meaning herein-after assigned to them, unless there is something in the context repugnant to such construction; (that is to say,)

"British colony and possession."

"British colony and possession" shall for the purposes of this Act include the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of India, and all other Her Majesty's dominions.

"Legislature."

"Legislature" shall signify any authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony or possession.

"Privy Council."

"Privy Council" shall include Her Majesty in Council and the lords and others of Her Majesty's Privy Council, or any of them, and any committee of the Privy Council that is not specially named in the schedule hereto.

"Government printer."

"Government printer" shall mean and include the printer to Her Majesty, and any printer purporting to be the printer authorized to print the statutes, ordinances, acts of state, or other public acts of the legislature of any British colony or possession, or otherwise to be the Government printer of such colony or possession.

"Gazette." "Gazette" shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes.

Provisions of Act to be cumulative.

6. THE provisions of this Act shall be deemed to be in addition to, and not in derogation of, any powers of proving documents given by any existing statute, or existing at common law.

SCHEDULE.

Column 1. Name of Department or Officer.	Column 2. Names of Certifying Officers.
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the office of Lord High Admiral.	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under-Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade, or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board, or any Secretary or Assistant Secretary of the said Board.

31 & 32 VICTORIA. A. D. 1868.

CHAPTER XXXVIII.

An Act for the Appropriation of certain unclaimed Shares of Prize Money acquired by Soldiers and Seamen in India. [*25th June 1868.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Shares of prize money payable to persons in forces of East India Com-

1. ALL and every shares and share of booty, prize money, head money, bounty money, and salvage money, and of money arisen or which shall hereafter arise from, or which is now or shall hereafter be distributable in respect of, any capture or other warlike service whatsoever which has heretofore been

or shall hereafter be made or performed, and to which shares or share any officer, soldier, sailor, or other person at any time in or belonging or having belonged to the forces of the East India Company, to Her Majesty's Indian staff corps, or to Her Majesty's local Indian forces, European or native, is now or shall hereafter be entitled, in whatsoever service the same may have been acquired, and which shares or share have come into and are now remaining in the hands, or shall hereafter come into the hands, of any prize agent or agents, or any other person whomsoever, shall be paid, according to the residence of the party or parties paying the same, either in London into the Bank of England to the account of the Secretary of State in Council of India, or in India into such places and in such manner as the Government in India shall direct; and all sums of money when so paid shall be placed to the credit of the revenues of India, and shall for all purposes form part of such revenues, and be applicable in all respects as such revenues are or shall be applicable; subject, nevertheless, to be refunded, without interest, to any person or persons entitled to the same, and establishing his, her, or their claim or claims thereto to the satisfaction of the Secretary of State in Council of India.

pany, Indian staff corps, or local Indian forces, European or native, to be paid and placed to credit of revenues of India, in England or India.

subject to be refunded, without interest, to persons establishing claims thereto.

2. . . . . all money which shall hereafter come into the hands of any prize agent or prize agents, or any other person or persons whomsoever, and which is hereby directed to be paid and be placed to the credit of the revenues of India, whether the same shall be to be paid in England or in India, shall be paid within two calendar months next after the receipt thereof by such prize agent or agents or other person or persons.

Time within which payment is to be made.

3. THE Secretary of State in Council of India shall have and may exercise the same or the like powers, rights, and remedies, so far as the same shall be applicable, for discovery and recovery of and otherwise in relation to or in respect of the monies hereby directed to be paid and to be placed to the credit of the revenues of India, as the Commissioners or the Treasurer for the time being of Chelsea Hospital, or the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral, or any other persons or person, or any corporation entitled to or interested in any prize money acquired by or due to any officers, soldiers, or seamen in or belonging to Her Majesty's European military or naval forces, have or can exercise, by virtue of any Act or Acts now in force, for the discovery or recovery of or otherwise in relation to or in respect of such last-mentioned prize money; and all courts of law and equity and of Admiralty jurisdiction in the United Kingdom and in India shall have and may exercise the same or the like jurisdiction, powers, and authorities, for compelling every person to account for and pay over the moneys hereby directed to be paid and be placed

Power to the Secretary of State in Council to recover monies as herein directed.

Power to courts in United Kingdom and India to compel payment.

to the credit of the revenues of India, as any court of law or equity or of Admiralty jurisdiction may now exercise with respect to any prize money acquired by or belonging to any such officers, soldiers, or seamen as last aforesaid; and every person who is required by this Act to pay over any share or shares shall be subject to the like liability to account for the same, and to the like fines and penalties for neglect or default in not accounting for the same, and otherwise, as agents or other persons are by any Act or Acts now in force subject to in respect or any shares or balances of prize money acquired by or belonging to any such officers, soldiers, or seamen as last aforesaid.

Persons required to pay over prize money to be liable to account.

Nothing in the Act contained to prevent any person from recovering, within six years of payment, any prize money to which he may be entitled.

4. NOTHING in this Act contained shall prevent any person or persons from resorting to any remedy at law or in equity against the Secretary of State in Council of India for the recovery of principal without interest of any money to which he or they may be entitled, and which shall be paid in manner herein-before directed, and placed to the credit of the revenues of India, provided such person or persons shall prefer his or their claim thereto to the Secretary of State in Council of India within six years from the respective times at which the same money shall be so paid as aforesaid.

Nothing to prejudice existing rights or powers of Secretary of State in Council to prize money, or for recovery thereof.

5. NOTHING herein contained shall take away or affect any right which the Secretary of State in Council of India now has, or if this Act had not been passed would at any time have had, to or in respect of any monies hereby directed to be paid, nor shall diminish, abridge, or prejudice any rights, powers, or remedies which the Secretary of State in Council of India has, or if this Act had not been passed would have had, or could at any time have enforced, for the discovery or recovery of the same monies, or any of them.

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31 & 32 VICTORIA. A. D. 1868.

CHAPTER LXI.

An Act for removing Doubts as to the Validity of certain Marriages between British Subjects in China and elsewhere, and for amending the Law relating to the Marriage of British Subjects in Foreign Countries.

[*16th July 1868.*]

12 & 13 Vict. c. 68.

WHEREAS by an Act of the session of the twelfth and thirteenth years of the reign of Her present Majesty, chapter sixty-eight, intituled "An Act for facilitating the marriage of British subjects resident in foreign countries," provision is made for the solemnization of marriages in foreign

countries or places where there may be a British consul duly authorized in that behalf, between persons both or one of whom is or are a British subject or British subjects; and it is thereby enacted, that every British consul general and consul appointed or to be appointed to reside in any foreign country or place, who shall be directed or authorized in writing under the hand of one of Her Majesty's Principal Secretaries of State to solemnize and register marriages, and any persons duly authorized to act in the absence of such consul, shall, in the country or place in which he is so appointed to reside, or in which he is directed or authorized to solemnize or register marriages as aforesaid, be a consul duly authorized for all the purposes of the said Act: Sect. 19.

And whereas marriages have been from time to time solemnized at certain places in China and elsewhere, between persons being both or one of them subjects or a subject of this realm, by persons acting temporarily as consuls in such places:

And whereas doubts are entertained as to the validity of the said marriages, owing to a question having arisen whether the persons by whom the same were solemnized were duly authorized in that behalf; and it is expedient to remove such doubts as to the said marriages, and as to any marriages which may be celebrated in like manner after the passing of this Act:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The Consular Marriage Act, 1868."

Certain past marriages herein specified confirmed.

2. ALL marriages solemnized before the passing of this Act (both or one of the parties thereto being subjects or a subject of this realm) by or in the presence of any person acting or purporting to act in the place of a British consul, such consul being duly authorized to solemnize and register marriages according to the provisions of the said recited Act, shall be as valid in law as if the same had been solemnized by or in the presence of such British consul.

Acting consuls to have power to solemnize marriages under recited Act.

3. FROM and after the passing of this Act, every person acting or legally authorized to act in the place of a British consul, such consul being duly authorized to solemnize and register marriages between persons (both or one of them being a subject or subjects of this realm), shall be deemed to be a British consul duly authorized for all the purposes of the said recited Act.

31 & 32 VICTORIA. A. D. 1868.

CHAPTER XCI.

An Act to settle an Annuity upon Lieutenant General Sir Robert Napier, G.C.B., G.C.S.I., and the next surviving Heir Male of his Body, in consideration of his eminent Services.[a] [*31st July 1868.*]

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31 & 32 VICTORIA. A. D. 1868.

CHAPTER CXXIX.

An Act to amend the Law relating to the Registration of Ships in British Possessions. [*31st July 1868.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Grant of terminable certificates of registry, subject to conditions, in colonies.

1. THE governor or officer lawfully administering the government of any British possession may from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, make regulations providing that on an application for registration under the Merchant Shipping Act, 1854, in that possession of any ship not exceeding sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.

Ships to be deemed registered British ships.

2. NOTWITHSTANDING anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered British ship.

Governors abroad may appoint surveyors.

3. THE governor of any British possession abroad may from time to time appoint fit and proper persons to be surveyors, who shall have and exercise within such possession all the powers with respect to the inspection of crew spaces that are conferred upon the Board of Trade surveyors in the United Kingdom by section nine of the Merchant Shipping Act, 1867.

30 & 31 Vict. c. 124. s. 9.

Construction of Act.

4. THIS Act shall be read as one Act with the Merchant Shipping Act, 1854, and the Acts amending the same.

Short title.

5. THIS Act may be cited as The Colonial Shipping Act, 1868.

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[a] It has been thought sufficient to print the title of this Statute.

32 VICTORIA. A. D. 1869.

CHAPTER III.

An Act to enable Lord Napier of Magdala to receive the full Benefit of the Salary of Member of Council for the Presidency of Bombay, or as holding any other Office in India, notwithstanding his being in Receipt of an Annuity granted to him under the Act Thirty-one and Thirty-two Victoria, chapter Ninety-one.[a]

[*19th April 1869.*]

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32 VICTORIA. A. D. 1869.

CHAPTR VII.

An Act for the Confirmation and Execution of Arrangements made between the Secretary of State in Council of India and the East India Irrigation and Canal Company; and for other Purposes connected therewith.

[*19th April 1869.*]

WHEREAS the East India Irrigation and Canal Company (in this Act and the schedule thereto called the company) were by the East India Irrigation and Canal Act, 1861, incorporated for the purposes therein mentioned, including the following; namely,—

The construction, improvement, maintenance, and management of works for the irrigation of land, combined, wherever such combination might be considered practicable and advantageous, with navigable canals, and of navigable canals, within the dominions of Her Majesty the Queen known as the East Indies, or in any of the adjacent states and territories:

The rendering navigable and improving the navigation of rivers or waters within such dominions, states, and territories:

The construction, improvement, maintenance, and management of works for the supply of water, and the supply of water to the Secretary of State in Council of India or the supreme or any of the local governments of India, or to any body or person:

The obtaining of all powers, the entering into all contracts, and the doing of all things expedient for or incidental, necessary, or conducive to the attainment of those purposes or any or either of them, either by the company alone, or jointly with any other company, or in conjunction with the Secretary of State in Council, or the supreme or any of the local or native governments of India, or any other body or person;

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[a] It has been thought sufficient to print the title of this Statute.

with a proviso that only such of the purposes aforesaid should be carried into operation as should be agreed on between the company and the Secretary of State in Council, or the supreme or any of the local governments of India:

And whereas by agreement with the Secretary of State in Council the company undertook the execution of a scheme of works for irrigation, navigation, and supply of water and other purposes in the districts and deltas of the rivers Mahanuddy, Byturny, and Brahmany, in the province of Orissa, and their affluents, and a main irrigation and navigable canal to connect those works with Calcutta, with subsidiary channels necessary to irrigate and accommodate with means of water transport the lands of the districts through which the main canal would pass, which scheme of works is known as the Orissa undertaking:

And whereas by The East India Irrigation and Canal Act, 1866, provision was made to the effect that the Orissa undertaking should be deemed a separate undertaking of the company, and that the capital then already issued by the company should be appropriated for the purposes of that undertaking, and, with all further capital which the company might thereafter issue for that undertaking, should be called the Orissa capital, and should be kept separate and distinct from the other capital of the company, and that the income to be derived from the outlay of that capital should be kept separate and distinct from the other income of the company:

And whereas by another agreement with the Secretary of State in Council the company undertook the execution of a scheme of works (similar in character to those of the Orissa undertaking) in the province of Behar, starting from the Soane river, and embracing territory between that river and Chunar on the one side, and Patna on the other side, which scheme of works is known as the Behar undertaking, but no capital has been created in respect of that undertaking:

And whereas it having appeared to the Secretary of State in Council and to the company expedient that the company should transfer to the Secretary of State in Council the Orissa undertaking and the Behar undertaking, and all the rights and interests of the company therein respectively, agreements for such transfer have been made on the terms appearing in the three instruments described in the schedule to this Act, and those instruments purport to carry into effect or to provide for such transfer; but doubts have been raised whether the company had power to enter into the said agreements, and it is expedient that provision be made by authority of Parliament for the execution thereof:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most excellent Majesty, by and with the advice and

consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as The East India Irrigation and Canal Act, 1869.

Instruments described in schedule confirmed.

2. THE three several instruments described in the schedule to this Act (in this Act referred to as the scheduled instruments) are hereby confirmed as on and from their respective dates, and the same shall be, and shall as from those dates respectively be deemed to have been, valid as between the Secretary of State in Council and the company and binding on them respectively, and shall be carried into execution accordingly.

Certain receipts to discharge Secretary of State from liabilities.

3. A RECEIPT under the common seal of the company, countersigned by the secretary of the company, for any money payable by the Secretary of State in Council to the company or the directors thereof, under the scheduled instruments or any of them, shall effectually discharge the Secretary of State in Council from the money therein expressed to be received, and from all liability in respect thereof; and the Secretary of State in Council shall not be concerned to see to the application or responsible for any loss or misapplication thereof.

Application of money paid for Orissa undertaking.

4. THE directors of the company shall hold all principal money by the first-mentioned of the scheduled instruments stipulated to be paid to them for and on behalf of the shareholders in the Orissa undertaking by the Secretary of State in Council, when the same is received by them, and all interest received by them in respect thereof from the Secretary of State in Council, on trust to distribute the same among the holders of shares or stock in the Orissa capital, their executors, administrators, or assigns, rateably according to the amounts paid on or in respect of their shares or stock.

Who to be deemed shareholders.

5. THE persons who appear in the books of the company to be proprietors of shares or stock in the Orissa capital shall, unless the contrary is proved to the satisfaction of the directors of the company, be considered to be holders of shares or stock in the Orissa capital for the purposes of the distribution of money in pursuance of this Act; and where any share in the Orissa capital has been declared forfeited by the company, but has not been sold, the same shall for the purposes of the scheduled instruments, but not further or otherwise, be deemed to have reverted as on the twenty-seventh day of November one thousand eight hundred and sixty-eight to the person to whom the same belonged at the time of forfeiture.

Receipts of executors, &c. effectual discharges.

6. THE receipt of an executor or administrator of a deceased holder of any share or stock in the Orissa capital, and the receipt of any person competent under the Acts relating to the company to give a discharge to the company for any money payable in respect of any such share or stock, shall be an

effectual discharge to the company and to the directors thereof for any money payable under this Act in respect of any such share or stock and in any such receipt expressed to be received, and shall exonerate the company and the directors thereof from any obligation affecting the share or stock in respect of which such money is paid, or in anywise relating to that money.

Discontinuance of Orissa capital.

7. On receipt by the several holders of shares or stock in the Orissa capital of their respective proportions of the money distributable among them under the scheduled instruments or any of them, those several shareholders or stockholders (except such of them as are for the time being acting as members of a committee for executing any resolution passed by the company before the passing of this Act under or in contemplation of the scheduled instruments or any of them) shall respectively cease to be members of the company as holders of such shares or stock, and the shares or stock held by them shall be deemed to be extinguished, and the Orissa capital shall be reduced accordingly; and as soon as all money received by the directors of the company in respect of the Orissa undertaking under the scheduled instruments or any of them has been distributed in manner directed by the scheduled instruments or any of them or by this Act, and the affairs of the Orissa undertaking have been wound up, then by virtue of this Act the Orissa undertaking shall cease to be part of the undertaking of the company, and the Orissa capital shall cease to exist, and the holders of shares or stock therein excepted as aforesaid shall cease to be as such members of the company, and as from the passing of this Act so much of the nominal Orissa capital as is not subscribed for shall be deemed to be extinguished.

The SCHEDULE to which the foregoing Act refers.

Instruments Confirmed.

1. Articles of agreement dated the 30th day of November 1868, made between the Secretary of State in Council of the one part and the company of the other part, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K.C.B., G.C.S.I., two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the company.

2. An indenture dated the 21st day of December 1868, made between the company of the one part and the Secretary of State in Council of the other part, being under the seal of the company, and under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K.C.B., G.C.S.I.,

two members of the Council of India, on behalf of the Secretary of State in Council.

3. Articles of agreement dated the 21st day of December 1868, indorsed on the first-mentioned articles of agreement, and made between the same parties as those articles, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K.C.B., G.C.S.I., two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the company.

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32 VICTORIA. A. D. 1869.

Chapter XI.

An Act for amending the Law relating to the Coasting Trade and Merchant Shipping in British Possessions. [*13th May 1869.*]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as "The Merchant Shipping (Colonial) Act, 1869."

Definition of terms: "British possession:"

2. In this Act, unless the context otherwise requires,—

The term "British possession" means any territory or place situate within Her Majesty's dominions, and not forming part of the United Kingdom, or of the Channel Islands, or Isle of Man; and all territories and places under one legislature as hereinafter defined are deemed to be one British possession for the purposes of this Act:

"Legislature."

The term "legislature" includes any person or persons who exercise legislative authority in the British possession, and where there are local legislatures as well as a central legislature, means the central legislature only.

Commencement of Act.

3. This Act shall be proclaimed in every British possession by the governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, which day is herein-after referred to as the commencement of this Act.

Coasting Trade.

Regulation of coasting trade by colonial legislature.

4. After the commencement of this Act the legislature of a British possession, by any Act or Ordinance, from time to time, may regulate the coasting

trade of that British possession, subject in every case to the following conditions:

(1.) The Act or Ordinance shall contain a suspending clause, providing that such Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed.

(2.) The Act or Ordinance shall treat all British ships (including the ships of any British possession) in exactly the same manner as ships of the British possession in which it is made.

(3.) Where by treaty made before the passing of this Act Her Majesty has agreed to grant to any ships of any foreign state any rights or privileges in respect of the coasting trade of any British possession, such rights and privileges shall be enjoyed by such ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

Sects. 328 and 163 of 16 & 17 Vict. c. 107. repealed.

5. THE following sections of the Customs Consolidation Act, 1853, are hereby repealed; namely,

Section three hundred and twenty-eight as from the commencement of this Act:

Section one hundred and sixty-three as from the date in the case of each British possession at which either an Act or Ordinance with respect to the coasting trade made within two years after the commencement of this Act in such British possession comes into operation, or if there is no such Act or Ordinance, at which the said two years expire.

Merchant Shipping.

Registrars of British ships in British possessions.

6. IT shall be lawful for Her Majesty, by Order in Council, from time to time to declare, with respect to the British possession mentioned in the order, the description of persons who are to be registrars of British ships in that British possession, and to revoke any order so made.

After the date specified in the order, or, if no date is specified, after the date of the proclamation of the order in the British possession, the order shall have effect as if it were contained in section thirty of the Merchant Shipping Act, 1854.

Application of Merchant Shipping Acts to Canada.

7. IN the construction of the Merchant Shipping Act, 1854, and of the Acts amending the same, Canada shall be deemed to be one British possession.

Colonial certificates to master, mates, and engineers.

8. WHERE the legislature of any British possession provides for the examination of, and grant of certificates of competency to persons intending to act as masters, mates, or engineers on board British ships, and the Board of Trade

reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the United Kingdom under the Acts relating to merchant shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited for the like reasons and in the like manner, it shall be lawful for Her Majesty, by Order in Council,

1. To declare that the said certificates shall be of the same force as if they had been granted under the said Acts:
2. To declare that all or any of the provisions of the said Acts which relate to certificates of competency granted under those Acts shall apply to the certificates referred to in the said order:
3. To impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation, and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Upon the publication in the London Gazette of any such Order in Council as last aforesaid, the provisions therein contained shall, from a date to be mentioned for the purpose in such order, take effect as if they had been contained in this Act.

It shall be lawful for Her Majesty in Council to revoke any order made under this section.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER XXIX.

An Act to render valid certain Title Deeds for Inám Lands.

[*12th July 1869.*]

WHEREAS by an Act passed in the twenty-second and twenty-third years of the reign of Her present Majesty, amending an Act passed in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled "An Act for the better government of India," it was provided that any deed, contract, or other instrument for the purpose of disposing of real estate in India, vested in Her Majesty under the said last-mentioned Act, may be expressed to be executed as on behalf of the Secretary of State for India in Council, by or by order of the Governor General in Council, or the Governor of Fort Saint George or of Bombay in Council: 22 & 23 Vict. c. 106.

And whereas certain title deeds have been issued for inám lands in the presidency of Fort Saint George by the inám commissioner in the execution

of his office in that respect in which it is not expressed that they are executed by order of the Governor in Council, and which further purport to have been executed on behalf of the Governor in Council instead of on behalf of the Secretary of State for India in Council:

And whereas it is apprehended that such title deeds might, under the operation of the Acts above recited, be invalid:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Title deeds for inám lands valid.

1. THAT no title deed for inám lands issued by the inám commissioner in the presidency of Fort Saint George up to the date of the passing of this Act shall be deemed invalid on the ground that such deed is not expressed therein to have been executed by order of the Governor in Council, or that it is expressed to have been executed on behalf of the Governor in Council of Fort Saint George instead of on behalf of the Secretary of State for India in Council; and all such title deeds shall be read and have the same effect as if they were expressed to have been executed by order of the Governor in Council and on behalf of the Secretary of State for India in Council.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER LXXI.

An Act to consolidate and amend the Law of Bankruptcy.

[*9th August 1869.*]

WHEREAS it is expedient to consolidate and amend the law relating to bankruptcy:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords and spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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PART III.

Orders of court.

Warrants of bankruptcy courts.

76. ANY warrant of a court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search warrant issued by a court having jurisdiction in bankruptcy under this Act for the

discovery of any property of a bankrupt may be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

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PART IV.

Supplemental provisions.

As to Trustees and Committee of Inspection.

Regulations as to trustees, &c.

83. THE following regulations shall be made with respect to the trustee and committee of inspection :—

(1) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee :

(2) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the registrar on the requisition of any creditor :

(3) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the registrar of the court for the time being having jurisdiction in the bankruptcy shall act as such trustee :

(4) The court may, upon cause shown, remove any trustee. The creditors may, by special resolution at a meeting specially called for that purpose, of which seven days notice has been given, remove the trustee and appoint another person to fill his office, and the court shall give a certificate declaring him to be the trustee :

(5) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the registrar shall, if there be no other trustee, call a meeting of creditors for the appointment of another trustee in his place :

(6) The property of the bankrupt shall pass from trustee to trustee, including under that term the registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever :

PART IV.
Supplemental provisions.

(7) The trustee of a bankrupt may sue and be sued by the official name of "the trustee of the property of a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding upon himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office:

(8) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly:

(9) All acts and things by this Act authorized or required to be done by or to the registrar may be done within the district of each court having jurisdiction in bankruptcy by or to the registrar of that court:

(10) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee:

(11) The creditors may by resolution fix the quorum required to be present at a meeting of the committee of inspection:

(12) Any member of the committee of inspection may also be removed by a special resolution at any meeting of creditors of which the prescribed notice has been given, stating the object of the meeting:

(13) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy:

(14) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it do not exceed five:

(15) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act *bonâ fide* done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection:

(16) If a member of the committee of inspection become a bankrupt, his office shall thereupon become vacant:

PART IV.

Supplemental provisions.

(17) Where there is no committee of inspection, any act or thing, or any direction or consent, by this Act authorized or required to be done or given by such committee may be done or given by the court on the application of the trustee.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER LXXVII.

An Act for making better provision for the erection of a Lighthouse on the Great Basses Rock in the Colony of Ceylon, and for other purposes connected therewith. [*9th August 1869.*]

WHEREAS by the Merchant Shipping Amendment Act, 1855, the commissioners of Her Majesty's treasury and the public works loan commissioners are authorized to advance sums of money for the purpose of constructing a lighthouse on or near the coasts of any British possession:

And whereas a considerable sum has been advanced by the commissioners of Her Majesty's treasury for the establishment of a lightship near the Little Basses Rock, off the coast of Ceylon, part of which has been repaid out of the dues received in respect of such lightship:

And whereas it is expedient to make further provision for the exercise of the said powers for the purpose of the construction of a lighthouse on the Great Basses Rock near the Little Basses Rock:

And whereas the Secretary of State in Council of India has agreed to guarantee one half of a loan for the purpose of such lighthouse:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. THIS Act may be cited as "The Basses Lights Act, 1869."

Short title.

2. THIS Act shall be construed as one with the Merchant Shipping Act, 1854, and the Merchant Shipping Amendment Act, 1855, in this Act referred to as "the principal Acts."

Construction of Act.

3. FOR the purpose of constructing a lighthouse on the said Great Basses Rock, the public works loan commissioners are hereby required to advance, in pursuance of the principal Acts, out of the monies at their disposal which are applicable for advances under the Harbours and Passing Tolls, &c., Act, 1861, a sum or sums not exceeding in the whole seventy thousand pounds at interest at the rate of three and a quarter per cent. per annum, such sums to be repayable within a period not exceeding fifty years, and to be secured on the fund formed out of the dues mentioned in this Act.

Loan by public works loan commissioners.

Guarantee of loan.

4. THE commissioners of Her Majesty's treasury are hereby authorized to guarantee jointly with the Secretary of State in Council of India the principal and interest of the advances made by the public works loan commissioners for the purpose aforesaid, not exceeding the sum of seventy thousand pounds.

The commissioners of Her Majesty's treasury are hereby authorized to cause to be issued from time to time, out of the growing produce of the Consolidated Fund, such sums of money as may at any time be required to be paid to fulfil the guarantee in respect of one moiety of the said principal and interest.

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Accounts to be laid before Parliament.

6. THE Commissioners of Her Majesty's treasury and the Secretary of State in Council of India shall respectively cause to be prepared and laid before both Houses of Parliament an account of all sums issued and paid respectively for the purposes of the guarantee under this Act within three months after the same are so issued or paid, if Parliament be then sitting, or, if Parliament be not sitting, then within fourteen days after the then next meeting of Parliament.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER LXXXVIII.

An Act for the separation of the Straits Settlements from the Diocese of Calcutta.

[*9th August 1869.*]

WHEREAS by an Act of the session of the twenty-ninth and thirtieth years of the reign of Her present Majesty, chapter one hundred and fifteen, and by an Order in Council of the twenty-second day of December one thousand eight hundred and sixty-six, made in pursuance of the said Act, the islands and territories known as the "Straits Settlements," namely, Prince of Wales Island, the Island of Singapore, and the town and fort of Malacca, and their dependencies, ceased to be part of India for the purposes and within the meaning of an Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six:

Recital of 53 Geo. 3. c. 155. and 3 & 4 Wm. 4. c. 85.

And whereas by virtue of an Act passed in the session of the fifty-third year of the reign of King George the Third, chapter one-hundred and fifty-five, and of another Act of the session of the third and fourth years of the reign of King William the Fourth, chapter eighty-five, and of letters patent under the great seal of the United Kingdom bearing date respectively the

second day of May one thousand eight hundred and fourteen, the thirteenth day of June one thousand eight hundred and thirty-five, and the first day of October one thousand eight hundred and thirty-seven, the said Straits Settlements were before the passing of the said first recited Act and still are part of the diocese of Calcutta, and subject to the metropolitical authority of the bishop of that diocese:

And whereas it is expedient that the said Straits Settlements should be separated from the said diocese and cease to be subject to such metropolitical authority:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Separation of Straits Settlements from diocese of Calcutta.

1. THE said recited Acts of Parliament of the reigns of King George the Third and King William the Fourth, and the said letters patent shall no longer apply to the said Straits Settlements; and the said Straits Settlements shall from the passing of this Act cease to be part of the said diocese of Calcutta and to be subject to the metropolitical authority of the bishop of that diocese.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER XCV.

An Act to enable Military Offenders to be confined in Millbank Prison.

[11th August 1869.]

WHEREAS it is expedient to provide that military offenders subject to imprisonment may be confined in Millbank prison:

Be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The Millbank Prison Act, 1869."

Power to remove military prisoners.

2. FROM and after the passing of this Act any military prisoner may be sent, removed, or transferred to the Millbank prison for the purpose of undergoing his sentence, by the same authority and in the same manner in and by which such prisoner might, for such purpose, in pursuance of the Mutiny Act, be sent to any public prison, or removed from one public prison to another, or transferred from a military prison to a public prison; subject, nevertheless, to the provisions of the Millbank Acts as to his freedom from any putrid or infectious distemper, or to his being examined and certified by the medical officer of the Millbank prison to be fit to be received into the same.

Any military prisoner sent, removed, or transferred to Millbank prison in pursuance of this Act shall, during his continuance in such prison, be subject to the Millbank Acts, in the same manner as if he were a convict in the custody of the governor of the said prison in pursuance of the Millbank Acts; and the said prison shall be deemed to be a prison for the punishment of prisoners sent, removed, or transferred thereto in pursuance of this Act, as well as of convicts under sentence of penal servitude; and it shall be lawful for one of Her Majesty's principal Secretaries of State to make regulations with respect to the treatment of military prisoners who may be confined in such prison, but, until such regulations are made, such prisoners shall be subject to the regulations for the time being applicable to convicts in such prison under sentence of penal servitude.

Before any military prisoners are received into the Millbank prison, the commissioners of the treasury shall determine the rate to be charged for the maintenance of such prisoners, and out of what funds such rate is to be defrayed.

Discharge of military offender from Millbank.

3. ANY military prisoner may be discharged from the Millbank prison or delivered over to military custody out of the Millbank prison, in the same manner and by the same authority in and by which he might be discharged or so delivered under the Mutiny Act from a public prison other than a military prison.

Interpretation of terms.

4. IN the construction of this Act the term "Mutiny Act" shall mean any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the army and their quarters:

The term "military prisoner" shall mean any person subject to imprisonment by or in pursuance of the sentence of any court-martial, passed either before or after the passing of this Act:

The term "Millbank Acts" shall mean and include any Act or Acts for the time being in force for regulating the Millbank prison.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER XCVII.

An Act to amend in certain respects the Act for the better Government of India.

[*11th August 1869.*]

WHEREAS it is expedient that the Act of the twenty-first and twenty-second years of Victoria, chapter one hundred and six, intituled "An Act for the better government of India," should be amended as regards the duration of

service and the remuneration of members of the Council of India, and in certain other respects:

And whereas it is provided by the said recited Act that every member of the said Council elected or appointed under that Act shall hold his office during good behaviour:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Vacancies to be filled up by Secretary of State.

1. After the passing of this Act all vacancies that shall take place in the said Council shall be filled up by appointment by the Secretary of State.

Members of Council of India to be in future appointed for ten years.

2. Every member of the said Council who shall, after the passing of this Act, be so appointed, shall be appointed for a term of ten years, and, except as herein after provided, shall not be re-eligible.

Re-appointment of member for farther period of five years.

3. It shall be lawful for the Secretary of State to re-appoint for a farther period of five years any person whose term of office as member of Council under this Act shall have expired, provided such re-appointment be made for special reasons of public advantage, which reasons shall be set forth in a minute signed by the said Secretary of State, and laid before both Houses of Parliament.

Former Acts to apply to future members.

4. Except as herein otherwise provided, all the provisions of the said recited Act, and of any other Act of Parliament relating to members of the Council of India, shall apply to members appointed under the provisions of this Act.

Sect. 14 of 21 & 22 Vict. c. 106. repealed.

5. Section fourteen of the said recited Act for the better government of India is hereby repealed.

As to retiring pensions of existing members of Council.

6. Any member of Council may, by writing under his hand, which shall be recorded in the minutes of the Council, resign his office; and it shall be lawful for Her Majesty by warrant under her Sign Manual, countersigned by the Chancellor of the Exchequer, to grant to any member so resigning, out of the revenues of India, if he shall have been elected or appointed before the passing of this Act, and if he shall have held the said office for the period of ten years and upwards at the date of such resignation, a retiring pension during life of five hundred pounds.

Provision as to future changes in constitution of Council.

7. If at any time hereafter it should appear to Parliament expedient to reduce the number or otherwise to deal with the constitution of the said Council, no member of Council who has not served in his office for a period of ten years shall be entitled to claim any compensation for the loss of his office, or for any alteration in the terms and condition under which the same is held.

Appointment of ordinary members of the Governor General's Council and of the presidencies.

8. THE appointments of the ordinary members of the Governor General's Council, and of the members of Council of the several presidencies, which, by section twenty-nine of the said recited Act, are to be made by the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, shall, after the passing of this Act, be made by Her Majesty by warrant under her Royal Sign Manual.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER XCVIII.

An Act to define the powers of the Governor General of India in Council at meetings for making laws and regulations for certain purposes.

[*11th August 1869.*]

WHEREAS doubts have arisen as to the extent of power of the Governor General of India in Council to make laws binding upon native Indian subjects beyond the Indian territories under the dominion of Her Majesty:

And whereas it is expedient that better provision should be made in other respects for the exercise of the power of the Governor General in Council:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to make laws for native Indian subjects beyond the Indian territories.

1. FROM and after the passing of this Act, the Governor General of India in Council shall have power at meetings for the purpose of making laws and regulations to make laws and regulations for all persons being native Indian subjects of Her Majesty, her heirs and successors, without and beyond as well as within the Indian territories under the dominion of Her Majesty.

Former laws to be valid.

2. No law heretofore passed by the Governor General of India, or by the Governors of Madras and Bombay, respectively in Council, shall be deemed to be invalid solely by reason of its having reference to native subjects of Her Majesty not within the Indian territories under the dominion of Her Majesty.

Power to repeal or amend certain sections of 3 & 4 Wm. 4. c. 85.

3. NOTWITHSTANDING anything in the Indian Councils Act or in any other Act of Parliament contained, any law or regulation which shall hereafter be made by the Governor General in Council in manner in the said Indian Councils Act provided shall not be invalid by reason only that it may repeal or affect any of the provisions of the said Act of the third and fourth years of King

William the Fourth, chapter eighty-five, contained in sections eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, and eighty-six of the said Act.

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32 & 33 VICTORIA. A. D. 1869.

CHAPTER CVI.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.[a]

[*11th August 1869.*]

WHEREAS the exigencies of the public service in India require that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to the Secretary of State in Council of India to raise any sum not exceeding 8,000,000*l.*

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times before the thirtieth day of April one thousand eight hundred and seventy-two, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole eight millions of pounds sterling, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

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Debentures transferable by delivery or deed.

Coupons by delivery.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable by the delivery of such debentures; and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery.[b]

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East India stock.

16. ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide.

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[a] Repealed in part by 37 & 38 Vic., c. 3, s. 15.

[b] The rest of this Act (sections 2 to 4 and 6 to 15) is omitted as being identical with the corresponding sections of 23 & 24 Vic., c. 130.

33 VICTORIA. A. D. 1870.

CHAPTER III.

An Act to make better Provision for making Laws and Regulations for certain parts of India, and for certain other Purposes relating thereto. [*25th March 1870.*]

WHEREAS it is expedient that provision should be made to enable the Governor General of India in Council to make regulations for the peace and good government of certain territories in India, otherwise than at meetings for the purpose of making laws and regulations held under the provisions of the Indian Council's Act, 1861, and also for certain other purposes connected with the Government of India:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to executive Government of British India to make regulations for certain parts thereof.

1. EVERY governor of a presidency in council, lieutenant governor, or chief commissioner, whether the governorship, or lieutenant governorship, or chief commissionership be now in existence or may hereafter be established, shall have power to propose to the Governor General in council drafts of any regulations, together with the reasons for proposing the same, for the peace and government of any part or parts of the territories under his government or administration to which the Secretary of State for India shall from time to time by resolution in council declare the provisions of this section to be applicable from any date to be fixed in such resolution.

And the Governor General in council shall take such drafts and reasons into consideration; and when any such draft shall have been approved of by the Governor General in council, and shall have received the Governor General's assent, it shall be published in the "Gazette of India" and in the local "Gazette," and shall thereupon have like force of law and be subject to the like disallowances as if it had been made by the Governor General of India in council at a meeting for the purpose of making laws and regulations.

The Secretary of State for India in council may from time to time withdraw such power from any governor, lieutenant governor, or chief commissioner, on whom it has been conferred, and may from time to time restore the same as he shall think fit.

Copies regulations to be sent to Secretary of State.

2. THE Governor General shall transmit to the Secretary of State for India in council an authentic copy of every regulation which shall have been made under the provisions of this Act, and all laws or regulations hereafter made by the Governor General of India in council, whether at a meeting for the

purpose of making laws and regulations, or under the said provisions, shall control and supersede any regulation in any wise repugnant thereto which shall have been made under the same provisions.

Subsequent enactments to control regulations.

3. WHENEVER the Governor General in council shall hold a meeting for the purpose of making laws and regulations at any place within the limits of any territories now or hereafter placed under the administration of a lieutenant governor or a chief commissioner, the lieutenant governor or chief commissioner respectively shall be ex officio an additional member of the council of the Governor General for that purpose, in excess (if necessary) of the maximum number of twelve specified by the said Act.

Lieutenant-governors and chief commissioners to be members ex officio of the Governor General's council for the purpose of making laws and regulations.

4. SECTION forty-nine of the Act of the third and fourth years of King William the Fourth, chapter eighty-five, is hereby repealed.

Sect. 49 of 3 & 4 Wm. 4. c. 85, repealed.

5. WHENEVER any measure shall be proposed before the Governor General of India in council whereby the safety, tranquillity, or interests of the British possessions in India, or any part thereof, are or may be, in the judgment of the said Governor General, essentially affected, and he shall be of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority in council then present shall dissent from such opinion, the Governor General may, on his own authority and responsibility, suspend or reject the measure in part or in whole, or adopt and carry it into execution, but in every such case any two members of the dissentient majority may require that the said suspension, rejection, or adoption, as well as the fact of their dissent, shall be notified to the Secretary of State for India, and such notification shall be accompanied by copies of the minutes (if any) which the members of the council shall have recorded on the subject.

Procedure in case of difference between the Governor General and the majority of his council.

6. WHEREAS it is expedient that additional facilities should be given for the employment of natives of India, of proved merit and ability, in the civil service of Her Majesty in India: Be it enacted, that nothing in the "*Act for the* government of India," twenty-one and twenty-two Victoria, chapter one hundred and six, or in the "Act to confirm certain appointments in India, and to amend the law concerning the civil service there," twenty-four and twenty-five Victoria, chapter fifty-four, or in any other Act of Parliament or other law now in force in India, shall restrain the authorities in India by whom appointments are or may be made to offices, places, and employments in the civil service of Her Majesty in India from appointing any native of India to any such office, place, or employment, although such native shall not have been admitted to the said civil service of India in manner in section thirty-two of the first-mentioned Act provided, but subject to such rules as may be from

Power to appoint natives of India to certain offices without certificate from the civil service commissioners.

time to time prescribed by the Governor General in council, and sanctioned by the Secretary of State in council, with the concurrence of a majority of members present; and that for the purpose of this Act the words "natives of India" shall include any person born and domiciled within the dominions of Her Majesty in India, of parents habitually resident in India, and not established there for temporary purposes only, and that it shall be lawful for the Governor General in Council to define and limit from time to time the qualification of natives of India thus expressed; provided that every resolution made by him for such purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

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33 VICTORIA. A. D. 1870.

CHAPTER XIV.

An Act to amend the Law relating to the legal Condition of Aliens and British Subjects.

[*12th May 1870.*]

WHEREAS it is expedient to amend the law relating to the legal condition of aliens and British subjects: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The Naturalization Act, 1870."

Status of Aliens in the United Kingdom.

Capacity of an alien as to property.

2. REAL and personal property of every description may be taken acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject, and a title to real and personal property, of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject: Provided,—

(1) That this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office or for any municipal, Parliamentary, or other franchise:

(2) That this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges

in respect of property as are hereby expressly given to him:

(3) That this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

Power of naturalized aliens to divest themselves of their status in certain cases.

3. WHERE Her Majesty has entered into a convention with any foreign state to the effect that the subjects or citizens of that state who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the state referred to in such order, who has been naturalized as a British subject, may, within such a limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the state to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows; that is to say—If the declarant be in the United Kingdom, in the presence of any justice of the peace, if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

How British-born subject may cease to be such.

4. ANY person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign state a subject of such state, and is still such subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject. Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age, and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

Alien not entitled to jury de medietate linguæ.

5. FROM and after the passing of this Act, an alien shall not be entitled to be tried by a jury de medietate linguæ, but shall be triable in the same manner as if he were a natural-born subject.

Expatriation.

Capacity of British subject to renounce allegiance to Her Majesty.

6. ANY British subject who has at any time before, or may at any time after the passing of this Act, when in any foreign state and not under any disability voluntarily become naturalized in such state, shall from and after the time of his so having become naturalized in such foreign state, be deemed to have ceased to be a British subject and be regarded as an alien: Provided,—

(1) That where any British subject has before the passing of this Act voluntarily become naturalized in a foreign state and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject, and upon such declaration hereinafter referred to as a declaration of British nationality being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the foreign state in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect:

(2) A declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say,—if the declarant be in the United Kingdom, in the presence of a justice of the peace; if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law in the place in which the declarant is to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and Resumption of British Nationality.

Certificate of naturalization.

7. AN alien who, within such limited time before making the application hereinafter-mentioned as may be allowed by one of Her Majesty's principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom, or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

Certificate of re-admission to British nationality.

8. A NATURAL-BORN British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

A statutory alien to whom a certificate of re-admission to British nation-

ality has been granted shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the foreign state of which he became a subject he shall not be deemed to be a British subject unless he has ceased to be a subject of that foreign state according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

Form of oath of allegiance.

9. THE oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say,

"I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me God."

National Status of married Women and infant Children.

National status of married women and infant children.

10. THE following enactments shall be made with respect to the national status of women and children:

(1) A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject:

(2) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act:

(3) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject:

(4) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents:

(5) Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized British subject.

Supplemental Provisions.

Regulations as to registration.

11. ONE of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters :—

(1) The form and registration of declarations of British nationality:

(2) The form and registration of certificates of naturalization in the United Kingdom:

(3) The form and registration of certificates of re-admission to British nationality:

(4) The form and registration of declarations of alienage:

(5) The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of British subjects who may be born or die out of Her Majesty's dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations:

(6) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act:

(7) With the consent of the treasury the imposition or application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter, or add to any regulation previously made by him in pursuance of this section.

Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not so far as respects the imposition of fees be in force in any British possession, and shall not, so far as respects any other matter, be in force in any British possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

Regulations as to evidence.

12. THE following regulations shall be made with respect to evidence under this Act:—

(1) Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned:

(2) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:

(3) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:

(4) Entries in any register authorized to be made in pursance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register:

(5) The Documentary Evidence Act, 1868, shall apply to any regulation made by a Secretary of State, in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

Miscellaneous.

Saving of letters of denization.

13. NOTHING in this Act contained shall affect the grant of letters of denization by Her Majesty.

Saving as to British ships.

14. NOTHING in this Act contained shall qualify an alien to be the owner of a British ship.

Saving of allegiance prior to expatriation.

15. WHERE any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Power of colonies to legislate with respect to naturalization.

16. ALL laws, statutes, and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges, or any of the privileges, of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinances in that possession.

Definition of terms.

17. IN this Act, if not inconsistent with the context or subject-matter thereof,—

"Disability" shall mean the status of being an infant, lunatic, idiot, or married woman:

"British possession" shall mean any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kindom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act:

"The governor of any British possession" shall include any person exercising the chief authority in such possession:

"Officer in the diplomatic service of Her Majesty" shall mean any ambassador, minister, or chargé d'affaires, or secretary of legation, or any person appionted by such ambassador, minister, chargé d'affaires, or secretary of legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty:

"Officer in the consular service of Her Majesty" shall mean and include consul-general, consul, vice-consul, and consular agent and any person for the time being discharging the duties of consul-general, consul, vice-consul, and consular agent.

Repeal of Acts mentioned in Schedule.

Repeal of Acts.

18. THE several Acts set forth in the first and second parts of the schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned; provided that the repeal enacted in this Act shall not affect—

(1) Any right acquired or thing done before the passing of this Act:

(2) Any liability accruing before the passing of this Act:

(3) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act:

(4) The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULE.

NOTE.—Reference is made to the repeal of the "whole Act" where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the record commission, intituled "The Statutes of the Realm; printed by command of his Majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From original records and authentic manuscripts."

PART I.

ACTS WHOLLY REPEALED, OTHER THAN ACTS OF THE IRISH PARLIAMENT.

Date.	*Title.*
7 Jas. 1. c. 2.	An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
11 Will. 3. c. 6. (a)	An Act to enable his Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.
13 Geo. 2. c. 7.	An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of his Majesty's colonies in America.
20 Geo. 2. c. 44.	An Act to extend the provisions of an Act made in the thirteenth year of his present Majesty's reign, intituled "An Act for naturalizing foreign Protestants and others therein mentioned, as are settled or shall settle in any of his Majesty's colonies in America, to other foreign Protestants who conscientiously scruple the taking of an oath."
13 Geo. 3. c. 25.	An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of his late Majesty, "for naturalizing such foreign Protestants and others, "as are settled or shall settle in any of his Majesty's "colonies in America," and the other of the second year of the reign of his present Majesty, "for naturalizing such foreign Protestants as have served or "shall serve as officers or soldiers in his Majesty's "Royal American regiment, or as engineers in "America."
14 Geo. 3. c. 84.	An Act to prevent certain inconveniences that may happen by bills of naturalization.
16 Geo. 3. c. 52.	An Act to declare his Majesty's natural-born subjects inheritable to the estates of their ancestors, whether lineal or collateral, in that part of Great Britain called Scotland, notwithstanding their father or mother were aliens.

(a) 11 & 12 Wm. 3. (Ruff).

Date.	*Title.*
6 Geo. 4. c. 67.	An Act to alter and amend an Act passed in the seventh year of the reign of his majesty King James the First, intituled "An Act that all such as are to be "naturalized or restored in blood shall first receive "the sacrament of the Lord's Supper and the oath of "allegiance and the oath of supremacy."
7 & 8 Vict. c. 66.	An Act to amend the laws relating to aliens.
10 & 11 Vict. c. 83.	An Act for the naturalization of aliens.

PART II.

Acts of the Irish Parliament wholly repealed.

Date.	*Title.*
14 & 15 Chas. 2. c. 13.	An Act for encouraging Protestant strangers and other to inhabit and plant in the kingdom of Ireland.
2 Anne, c. 14.	An Act for naturalizing of all Protestant strangers in this kingdom.
19 & 20 Geo. 3. c. 29.	An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others as shall settle in this kingdom.
23 & 24 Geo. 3. c. 38.	An Act for extending the provisions of an Act passed in this kingdom in the nineteenth and twentieth years of his Majesty's reign, intituled "An Act for "naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, "farmers, and others as shall settle in this kingdom.
36 Geo. 3. c. 48.	An Act to explain and amend an Act, intituled "An "Act for naturalizing such foreign merchants, traders, "artificers, artizans, manufacturers, workmen, seamen, "farmers, and others who shall settle in this kingdom."

PART III.

Acts partially repealed.

		Extent of repeal.
4 Geo. 1. c. 9. (Act of Irish Parliament.)	An Act for reviving, continuing, and amending several statutes made in this kingdom heretofore temporary.	So far as it makes perpetual the Act of 2 Anne, c. 14.
6 Geo. 4, c. 50	An Act for consolidating and amending the laws relative to jurors and juries.	The whole of sect. 47.
3 & 4 Will. 4. c. 91.	An Act consolidating and amending the laws relating to jurors and juries in Ireland.	The whole of sect. 37.

33 & 34 VICTORIA. A. D. 1870.

CHAPTER LII.

An Act for amending the Law relating to the Extradition of Criminals.

[*9th August 1870.*]

WHEREAS it is expedient to amend the law relating to the surrender to foreign states of persons accused or convicted of the commission of certain crimes within the jurisdiction of such states, and to the trial of criminals surrendered by foreign states to this country:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. THIS Act may be cited as "The Extradition Act, 1870."

Where arrangement for surrender of criminals made, Order in Council to apply Act.

2. WHERE an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign state.

Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London Gazette.

Restrictions on surrender of criminals.

3. THE following restrictions shall be observed with respect to the surrender of fugitive criminals:

(1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character:

(2) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded:

(3) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise:

(4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

Provisions of arrangement for surrender.

4. An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

(1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and,

(2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

Publication and effect of order.

5. When an order applying this Act in the case of any foreign state has been published in the London Gazette, this Act (after the date specified in the order, or if no date is specified, after the date of the publication,) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order, apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

Liability of criminal to surrender.

6. Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

Order of Secretary of State for issue of warrant in United Kingdom if crime is not of a political character.

7. A REQUISITION for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to a Secratary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by police magistrate, justice, &c.

8. A WARRANT for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued,

(1) by a police magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and

(2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of crime.

9. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal or discharge of prisoner.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

Surrender of fugitive to foreign state by warrant of Secretary of State.

11. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus.

Upon the expiration of the said fifteen days, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the

warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of her Majesty's dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of police magistrate.

13. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed.

Depositions to be evidence. 6 & 7 Vict. c. 76.

14. Depositions or statements on oath, taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act.

Authentication of depositions and warrants. 29 & 30 Vict. c. 121.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows:

(1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued;

(2) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require; and

(3) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place; and,

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice,

or some other minister of state: And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

Crimes committed at Sea.

Jurisdiction as to crimes committed at sea.

16. WHERE the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

1. This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate:
2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

Fugitive Criminals in British Possessions.

Proceedings as to fugitive criminals in British possessions.

17. THIS Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications; namely,

(1) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognised by that governor as a consul general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency:

(2) No warrant of a Secretary of State shall be required, and all powers vested in or acts authorized or required to be done under this Act by the police magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone:

(3) Any prison in the British possession may be substituted for a prison in Middlesex:

(4) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of laws of British possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying this Act in the case of any foreign state, or by any subsequent order, either

suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer;

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

General Provisions.

Criminal surrendered by foreign state not triable for previous crime.

19. Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

As to use of forms in second schedule

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, mutatis mutandis, and when used shall be deemed to be valid and sufficient in law.

Revocation, &c. of Order in Council.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, mutatis mutandis, to any such new order.

Application of Act in Channel Islands and Isle of Man.

22. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom; and the royal

courts of the Channel Islands are hereby respectively authorized and required to register this Act.

Saving for Indian treaties.

23. NOTHING in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Power of foreign state to obtain evidence in United Kingdom.

24. THE testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "An Act to provide for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals;" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Foreign state includes dependencies.

25. FOR the purposes of this Act, every colony, dependency, and constituent part of a foreign state, and every vessel of that state, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign state.

Definition of terms.

26. IN this Act, unless the context otherwise requires,—

"British possession:"

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

"Legislature:"

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor:"

The term "governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India:

"Extradition crime:"

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act:

"Conviction:"

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy,

but the term "accused person" includes a person so convicted for contumacy:

"Fugitive criminal:" The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in or is suspected of being in some part of her Majesty's dominions; and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state:

"Fugitive criminal of a foreign state:"

"Secretary of State:" The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"Police magistrate:" The term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow Street:

"Justice of the peace:" The term "justice of the peace" includes in Scotland any sheriff, sheriff's substitute, or magistrate:

"Warrant." The term "warrant," in the case of any foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime.

Repeal of Acts.

Repeal of Acts in third schedule. **27.** THE Acts specified in the third schedule to this Act are hereby repealed as to the whole of her Majesty's dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign states with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered, in the same manner as if this Act had not passed.

SCHEDULES.

FIRST SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing

in England, or in a British possession (as the case may be), at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Second Schedule.

Form of Order of Secretary of State to the Police Magistrate.

To the chief magistrate of the metropolitan police courts *or* other magistrate of the metropolitan police court in Bow Street [*or* the stipendary magistrate at].

Whereas, in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day of , a requisiton has been made to me, , one of Her Majesty's Principal, Secretaries of State, by , the diplomatic representative of , for the surrender of late of

accused [*or* convicted] of the commission of the crime of
within the jurisdiction of .
Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Act, 1870, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

Form of Warrant of Apprehension by Order of Secretary of State.

Metropolitan police district, [*or* county *or* borough of] to wit. } To all and each of the constables of the metropolitan police force [*or* of the county *or* borough of].

WHEREAS the Right Honourable one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of late of accused [*or* convicted] of the commission of the crime of within the jurisdiction of : This is therefore to command you in Her Majesty's name forthwith to apprehend the said pursuant to the Extradition Act, 1870, wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [[a] magistrate sitting in this court], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [[b] Bow Street, one of the police courts of the metropolis] this day of 18

J. P.

[a, b] NOTE.—Alter as required.

Form of Warrant of Apprehension without Order of Secretary of State.

Metropolitan police district, [*or* county *or* borough of] to wit. } To all and each of the constables of the metropolitan police force [*or* of the county *or* borough of].

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district [*or* the said county *or* borough of] that late of is accused [*or* convicted] of the commission of the crime of within the jurisdiction of

: This is therefore to command you in Her Majesty's name forthwith to apprehend the said and to bring him before me or some other magistrate sitting at this court [*or* one of Her Majesty's justices of the peace in and for the county [*or* borough] of] to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis [*or* in the county *or* borough aforesaid] this day of 18

J. P.

Form of Warrant for bringing Prisoner before the Police Magistrate.

To constable of the police force of and to all other peace officers in the said county [*or* borough] of

County [*or* borough] of to wit.

WHEREAS late of accused [*or* alleged to be convicted] of the commission of the crime of within the jurisdiction of has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [*or* borough] of

And whereas by the Extradition Act, 1870, he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow Street, within the metropolitan police district [*or* the stipendiary magistrate for]: This is therefore to command you the said constable in Her Majesty's name forthwith to take and convey the said to the metropolitan police district [*or* the said] and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [*or* before a stipendiary magistrate sitting in the said] to show cause why he should not be surrendered in pursuance of the Extradition Act, 1870, and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at in the county [*or* borough] aforesaid, this day of 18

J. P.

Form of Warrant of Committal.

To one of the constables of the metropolitan police force, [*or* of the police force of the county *or* borough of], and to the keeper of the

Metropolitan police district [*or* the county *or* borough of] to wit.

BE it remembered, that on this day of in the year of our Lord late of is brought before me the chief magistrate of the metropolitan police courts [*or* one of the police magistrates of the metropolis] sitting at the police court in Bow Street, within the metropolitan police district, [*or* a stipendiary magistrate for ,] to show cause why he should not be surrendered in pursuance of the Extradition Act, 1870, on the ground of his being accused [*or* convicted] of the commission of the crime of within the jurisdiction of , and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act:

This is therefore to command you the said constable in Her Majesty's name forthwith to convey and deliver the body of the said into the custody of the said keeper of the at , and you the said keeper to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [*or* at the said] this day of 18

J. P.

Form of Warrant of Secretary of State for Surrender of Fugitive.

To the keeper of and to

WHEREAS late of accused [*or* convicted] of the commission of the crime of within the jurisdiction of , was delivered into the custody of you the keeper of by warrant dated pursuant to the Extradition Act, 1870:

Now I do hereby, in pursuance of the said Act, order you the said keeper to deliver the body of the said into the custody of the said , and I command you the said to receive the said into your custody, and to convey him within the jurisdiction of the aid , and there place him in the custody of any person or persons appointed by, the said to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of

THIRD SCHEDULE.

Year and Chapter.	Title.
6 & 7 Vict. c. 75. ...	An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.
6 & 7 Vict. c. 76. ...	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
8 & 9 Vict. c. 120. ...	An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.
25 & 26 Vict. c. 70. ...	An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.
29 & 30 Vict. c. 121. ...	An Act for the amendment of the law relating to treaties of extradition.

33 & 34 VICTORIA. A. D. 1870.

CHAPTER LIX.

An Act to render valid certain Contracts informally executed in India.

[*9th August 1870.*]

WHEREAS by an Act passed in the twenty-second and twenty-third years of the reign of Her present Majesty, amending an Act passed in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled "An Act for the better government of India," it was provided that any deed, contract, or other instrument made by the authorities therein named for the purpose of disposing of real and personal estate in India vested in Her Majesty under the said last-mentioned Act, or of raising money on such real estate by way of mortgage, or of making proper assurance for that purpose, or of purchasing and acquiring any lands and hereditaments, or any interest therein, stores, goods, chattels, and other property in India, and of entering into any contracts whatsoever for the purposes of the said first-mentioned Act, may be expressed to be executed as on behalf of the Secretary of State for India in Council, by or by order of the Governor General in Council, or the Governor of Fort Saint George or of Bombay in Council: 22 & 23 Vict. c. 41.

And whereas by an Act passed in the thirty-second and thirty-third years of Her said Majesty it was recited, that certain deeds had been issued for inám lands in the presidency of Fort St. George by the inám commissioner in the execution of his office in that respect, which, by reason of certain defects in the expression of the execution thereof, it was apprehended might be invalid; and provision was thereupon made by the said last-mentioned Act that the said title deeds should not be deemed invalid by reason of such defects:

And whereas it is apprehended that other deeds, contracts, and instruments made for the purpose expressed in the said first-recited Act, besides such title deeds as aforesaid, may be invalid or deemed invalid for the like reason, and such provision as aforesaid should therefore be made more general:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Deeds, contracts, and instruments executed in India valid notwithstanding certain defects of execution.

1. EVERY deed, contract, or other instrument made in India for the purposes and by the authorities expressed in the said first-recited Act up to the date of the passing of this Act, and for any further period within the limit of one year to which the Governor General in Council may deem it advisable to extend the operation of this Act, which is expressed to be executed by or by order of or on behalf of the Governor General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council, or by any Lieutenant-Governor or Chief Commissioner, or any other officer for the time being entrusted with the government, charge, or care of any presidency, province, or district of British India within the limits of their respective governments, provinces, or districts, and every deed, contract, or other instrument so executed in British India by any person authorized in this behalf by the Secretary of State for India in Council, shall be and be deemed to have been as valid as if it had been executed in conformity with the provisions of the said first-recited Act; provided that such deed, contract, or other instrument has been in other respects duly executed according to the law in force at the date of its execution.

Power to authorities in India to vary forms of execution.

2. IT shall be lawful for the Governor General, by resolution in Council from time to time to vary the form of execution prescribed by the said first-recited Act for the deeds, contracts, and other instruments to which it relates, and to empower such authorities as to him may seem expedient to vary it within the respective limits of their local jurisdiction; and deeds, contracts, and other instruments executed according to forms so altered shall have in all respects the like validity as if they had been executed according to the provisions of the said first-recited Act.

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33 & 34 VICTORIA. A. D. 1870.

CHAPTER LXVII.

An Act to shorten the time of active Service in the Army, and to amend in certain respects the Law of Enlistment. [*9th August 1870.*]

WHEREAS it is expedient to shorten the period of army service of soldiers enlisted to serve in Her Majesty's army, and to establish a reserve force

which may be called into active service in a time of emergency; and also to amend in certain respects the law of enlistment in Her Majesty's army:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as "The Army Enlistment Act, 1870."

Twelve years the limit of enlistment.

2. FROM and after the passing of this Act, no person shall be enlisted for the first term of his engagement to serve Her Majesty as a soldier for a longer period than twelve years, to be reckoned from the day on which the recruit is attested for service.

Terms of enlistment.

3. ENLISTMENTS under this Act shall be as follows: either

(1) For the whole of the said period, in army service; or

(2) For a portion of the said period, to be fixed from time to time by the Secretary of State and specified in the attestation paper, in army service, and for the residue thereof in the first class of the reserve force established under the provisions of the Reserve Force Act, 1867; but nothing in this clause shall interfere with the power of Her Majesty to enlist men for a less period than twelve years in army service alone.

Change of service.

4. THE Secretary of State may from time to time by general or special regulations vary the conditions of service so as to permit a soldier who has served not less than three years in army service, with such soldier's free assent, either

(1) To enter the reserve force at once for the residue unexpired of his term of twelve years; or

(2) To extend his army service for the residue unexpired of his term of twelve years.

In imminent national danger, Her Majesty may continue soldiers in army service.

5. IT shall be lawful for Her Majesty, in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament if Parliament be then sitting, or declared by proclamation, in pursuance of an order of Her Majesty in Council, if Parliament be not then sitting, to direct that any soldier enlisted under this Act shall at any time within the period of twelve years for which he has been enlisted continue in or re-enter upon army service for such periods from time to time, not exceeding in the whole the unexpired residue of the term of his enlistment, as Her Majesty may determine; and upon such order being issued every soldier to whom it applies shall be bound to obey the same in the same manner as if it had formed part of this Act. When any such soldier is directed to re-enter upon army service under this section, it shall be lawful for the military authorities to attach him

to any regiment of that arm or branch of the service in which he has previously served.

Enlistment for general service, &c.

6. FROM and after the passing of this Act, all enlistments, except as herein-after mentioned, shall be for general service; and it shall be lawful for the military authorities to post any recruit so enlisted to any regiment or corps, and at any time within fifteen months after his attestation to direct him to be attached to any regiment or corps; but the Secretary of State may, from time to time, by any general or special regulations, permit recruits to be enlisted for particular regiments, and in such case they shall at once be attached to such regiments.

Effect of attachment to a regiment.

7. WHEN a soldier has been attached to a regiment or corps he shall serve therein for the period of his army service; provided that it shall be lawful for the military authorities to transfer him to any regiment or corps of the same arm or branch of the service serving in the United Kingdom, in the following cases;

(1) When he has been invalided from foreign service;

(2) When, in the case of his regiment or corps being ordered on foreign service, he is either unfit for foreign service by reason of his health or is within two years of the termination of the period of his army service, or of his enlistment, or of such re-engagement as is herein-after mentioned;

and to a regiment or corps of the same arm or branch of the service serving abroad, when, in the case of his regiment or corps being on foreign service, and ordered to return home, he has more than two years to serve previous to the termination of the period of his army service: Provided that the power of transfer in this case shall not apply to any man who enlists for the whole of the poriod of twelve years in army service, or to any man who, having enlisted for a portion of the said period in army service, has extended his army service for the residue unexpired of his term of twelve years, or to any man who has re-engaged.

Provided also, that nothing in this section contained shall affect the powers of transferring soldiers contained in any Act for punishing mutiny and desertion, and for the better payment of the army and for their quarters, for the time being in force.

Re-engagement of soldiers.

8. ANY soldier

(1) who being in army service has commenced the twelfth year from his first enlistment, or

(2) who being within three years of the expiration of his first enlistment and in army service has been ordered but has not yet proceeded on foreign service,

may, with the approval of his commanding officer or of some other competent military authority, and subject to such regulations as may from time to time be made by the Secretary of State, be re-engaged for such further period of army service as will make up a total continuous period of twenty-one years in Her Majesty's service, reckoning from the time of his first enlistment.

Limit of numbers.

9. THE the number of men serving in the militia reserve under the Militia Reserve Act, 1867, and in the army reserve, first class, under the Reserve Force Act, 1867, and this Act, shall not exceed in the whole sixty thousand.

Continuance in Her Majesty's service after twenty-one years therein.

10. ANY soldier who has completed a total period of twenty-one years service may give notice to his commanding officer of his desire to continue in Her Majesty's service; and if his commanding officer or any other competent military authority approve of such application he may be continued as a soldier in the same manner in all respects as if his term of service were still unexpired, except that it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged.

Prolongation of enlistment in certain cases.

11. ANY soldier whose period of army service or whose whole period of enlistment, as the case may be, expires while a state of war exists between Her Majesty and any foreign power, or while he is serving on foreign service, or on any colonial or Indian station, may be detained and his service may be prolonged for such further period not exceeding twelve months as the Secretary of State or the commanding officer at the station may direct; but at the expiration of such prolonged service, or sooner, if the said Secretary of State or commanding officer see fit, such soldier shall be transferred to the reserve force or discharged, as the case may be, and if serving abroad he shall, unless he desires to remain at the place where he is serving, be sent home at the public charge, with all convenient speed, and after his arrival he shall be transferred to the reserve force or discharged, as the case may be.

Rules for reckoning service.

12. IN reckoning the service of a soldier for the purposes of discharge under the provisions of this Act, all periods of time shall be excluded during which he has been absent from his duty for any of the following causes; that is to say,

1. Imprisonment; provided that imprisonment shall not for the purposes of this section include detention in respect of any trial which results in the acquittal or discharge of the prisoner.
2. Desertion.
3. Absence without leave exceeding five days.
4. Detention as a prisoner of war, unless it appear to the satisfaction of a court-martial to be summoned on his rejoining Her Majesty's service that he was not taken prisoner through his own wilful

neglect of duty, and that he rejoined as soon as he could and ought to have done.[a]

Discharge on completion of service.

13. EVERY soldier who has completed his period of service or of army service, according to the provisions of this Act, shall be entitled to his discharge, or transfer to the reserve force, as the case may be, unless at the time of the expiration of such period of service he stands charged with the commission of any offence, in which case his discharge or transfer to the reserve force shall be deferred, until he has undergone his trial and any punishment awarded to him.

Provisions in Reserve Force Act, 1867, and Militia Reserve Act, 1867, as to calling reserve and militia into active service, extended to cases of imminent national danger. 30 & 31 Vict. c. 110. s. 10. 30 & 31 Vict. c. 111, s. 8.

14. WHEREAS by the Reserve Force Act, 1867, section 10, it is provided that in case of actual invasion or imminent danger thereof, or in case a state of war exists between Her Majesty and any foreign power, it shall be lawful for Her Majesty by proclamation to direct that the reserve force by that Act constituted, or such part thereof as Her Majesty may think fit, be called out on permanent service:

And whereas by the Militia Reserve Act, 1867, section eight, it is provided that whenever a state of war exists between Her Majesty and any foreign power, and in all cases of actual invasion or imminent danger thereof, it shall be lawful for Her Majesty to order that the men enlisted under the said Act or such of them as Her Majesty may judge necessary shall enter upon army service:

And whereas it is expedient to assimilate the conditions under which men of the reserve force established under the said Acts of one thousand eight hundred and sixty-seven may be called to enter upon army service to those under which men enlisted under this Act may be directed to continue in or re-enter upon army service:

Be it enacted as follows:

1. Section ten of the Reserve Force Act, 1867, shall be construed as if the words "in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament if Parliament be then sitting, or declared by proclamation," were inserted in the said section in place of the words "in case of actual invasion or imminent danger thereof, or in case a state of war exists between Her Majesty and any foreign power:"
2. Section eight of the Militia Reserve Act, 1867, shall be construed as if the words "in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament if Parliament be then sitting, or declared by proclamation," were inserted in

[a] Repealed by 41 & 42 Vic., c. 10, s. 50, temporarily: continued by 42 & 43 Vic., c. 32, s. 5.

the said section in place of the words "whenever a state of war exists between Her Majesty and any foreign power, and in all cases of actual invasion or imminent danger thereof."

Provided that nothing in this section contained shall affect any person enlisted under the said Acts of one thousand eight hundred and sixty-seven before this Act comes into operation, except with his own consent.

Soldiers who have exceeded the first term of their engagement may be enrolled in reserve.

15. From and after the passing of this Act, any soldier who is serving or has served in any of Her Majesty's regular forces, and whose service (or past service) has exceeded the first term of his enlistment, may be enrolled to serve in the first class of the reserve force established under the Army Reserve Act, 1867; provided that no such soldier is when so enrolled above the age of thirty-four years.[a]

Power of Secretary of State to issue orders and forms.

16. The Secretary of State may from time to time issue such orders and forms for enlisting recruits and for otherwise carrying into effect this Act as he thinks expedient, and any orders and forms so issued shall be of the same force as if expressly enacted in this Act.

Saving of provisions of Acts relating to enlistment.

17. All provisions of any Act of Parliament for the time being in force relating to the enlistment of recruits for Her Majesty's Army shall, in so far as they are not inconsistent with this Act, be deemed to be incorporated with this Act, and to apply accordingly to any enlistments made in pursuance of this Act.

Application of Act to men under Army Enlistment Act, 1867.

18. This Act shall apply to men serving for the first term of their enlistment under the Act of the session holden in the tenth and eleventh years of Her Majesty's reign, chapter thirty-seven, intituled "An Act for limiting the term of service in the army," and the Army Enlistment Act, 1867, in the same manner as if they had been enlisted under this Act; provided that this Act shall not be applied to any man enlisted under such last-mentioned Act, except with his own consent.

Training of first class of reserve force.

19. The Secretary of State may from time to time make regulations for the training of persons serving in pursuance of this Act in the first class of the reserve force in such manner and during such periods as he may consider to interfere as little as possible with their ordinary trades or occupations, and as do not exceed in any one year twelve whole days or twenty drills.

Service of notices on reserve force.

20. The Secretary of State may require the chief officer of police in every district in the United Kingdom to cause to be served within his district any notice the Secretary of State may desire to be served on any members of the reserve forces in such district; and all officers and men of every police force

[a] Partially repealed by 41 & 42 Vic., c. 10, s. 107, temporarily: continued by 42 & 43 Vic., c. 32, s. 5.

shall conform to the orders of the said Secretary of State in relation to the service of such notices given through such officer.

"The reserve forces" shall mean the army reserve, the militia reserve, and any other reserve forces as defined by Act of Parliament, also the militia, yeomanry, volunteers, and any other land forces whatever within the United Kingdom, serving or liable to be called upon to serve Her Majesty in any military capacity and not forming part of the regular army.

Repeal.

21. From and after the passing of this Act, section eight of the Reserve Force Act, 1867, and all enactments inconsistent with this Act, shall be repealed.[a]

Definition of Secretary of State.

22. The Secretary of State shall mean any one of Her Majesty's Principal Secretaries of State.

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33 & 34 VICTORIA. A. D. 1870.

Chapter XC.

An Act to regulate the conduct of Her Majesty's Subjects during the existence of hostilities between foreign States with which Her Majesty is at peace.

[*9th August 1870.*]

Whereas it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title of Act.

1. This Act may be cited for all purposes as "The Foreign Enlistment Act, 1870."

Application of Act.

2. This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.

Commencement of Act.

3. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every British possession by the governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act.

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[a] Partially repealed by 41 & 42 Vic., c. 10, s. 107, temporarily: continued by 42 & 43 Vic., c. 32. s. 5.

Illegal Enlistment.

Penalty on enlistment in service of foreign state.

4. If any person, without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a British subject or not within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid,—

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on leaving Her Majesty's dominions with intent to serve a foreign state.

5. If any person, without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a British subject or not, within Her Majesty's dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's dominions with the like intent,—

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on embarking persons under false representations as to service.

6. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,—

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on taking illegally enlisted

7. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board

persons on board ship.

such ship within Her Majesty's dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

(1) any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state:

(2) any person, being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state:

(3) any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state:

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue; that is to say,

(1) the offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour: and

(2) such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace: and

(3) all illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.

Illegal Shipbuilding and Illegal Expeditions.

Penalty on illegal shipbuilding and illegal expeditions.

8. If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts; that is to say,—

(1) builds or agrees to build, or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(2) issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(3) equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(4) despatches, or causes or allows to be despatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state:

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:

(1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour:

(2) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty:

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following; (that is to say,)

(1) if forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State:

(2) if he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

Presumption as to evidence in case of illegal ship.

9. WHERE any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such

agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.

Penalty on aiding the warlike equipment of foreign ships.

10. If any person within the dominions of Her Majesty, and without the license of Her Majesty,—

by adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign state at war with any friendly state,—

such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on fitting out naval or military expeditions without license.

11. If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty,—

prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue:

(1) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour:

(2) All ships, and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.

Punishment of accessories.

12. Any person who aids, abets, counsels, or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender.

Limitation of term of imprisonment.

13. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years.

Illegal Prize.

Illegal prize

14. If, during the continuance of any war in which Her Majesty may be

neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored. brought into British ports restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and in the meantime and until a final order has been made on such application the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

General Provision.

15. For the purposes of this Act, a license by Her Majesty shall be under the Sign Manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty. License by Her Majesty how granted.

Legal Procedure.

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the person who committed such offence may be. Jurisdiction in respect of offences by persons against Act.

17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held. Venue in respect of offences by persons. 24 & 25 Vict. c. 97.

Power to remove offenders for trial.

18. THE following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

Jurisdiction in respect of forfeiture of ships for offences against Act.

19. ALL proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Act shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the court of Admiralty, and not in any other court; and the court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

Regulations as to proceedings against the offender and against the ship.

20. WHERE any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.

21. THE following officers, that is to say,

(1) any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the commissioners of customs or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade; Officers authorized to seize offending ships.

(2) any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the governor of such possession;

(3) any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;

(4) any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer,

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority;" but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

Powers of officers authorized to seize ships.

22. ANY officer authorized to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbour-master or dock-master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act, and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the Queen's Majesty, her heirs and successors, as against all persons so killed, maimed, or hurt.

Special power of Secretary of State or chief executive authority to detain ship.

23. IF the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue

a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner herein-after mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

Special power of local authority to detain ship.

24. WHERE it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

Power of Secretary of State or executive authority to grant search warrant.

25. THE Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dockyard or other place within Her Majesty's dominions, and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign state at war with a friendly state, and to search such ship.

Exercise of powers of Secretary of State or chief executive authority.

26. ANY powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say,

(1) in Ireland by the Lord Lieutenant or other the chief governor or governors of Ireland for the time being, or the chief secretary to the Lord Lieutenant:

(2) in Jersey by the Lieutenant Governor:

(3) in Guernsey, Alderney, and Sark, and the dependent islands, by the Lieutenant Governor:

(4) in the Isle of Man by the Lieutenant Governor:

(5) in any British possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorized in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man shall be laid before Parliament.

Appeal from Court of Admiralty.

27. AN appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal, and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.

Indemnity to officers.

28. SUBJECT to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty, no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.

Indemnity to Secretary of State or chief executive authority.

29. THE Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Interpretation Clause.

Interpretation of terms.

30. IN this Act, if not inconsistent with the context, the following term

have the meanings herein-after respectively assigned to them; that is to say,

"Foreign state" includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people: "Foreign state:"

"Military service" shall include military telegraphy and any other employment whatever, in or in connexion with any military operation: "Military service:"

"Naval service" shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer or ship under letters of marque; and as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque: "Naval service:"

"United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands: "United Kingdom:"

"British possession" means any territory, colony, or place being part of Her Majesty's dominions, and not part of the United Kingdom, as defined by this Act: "British possession:"

"The Secretary of State" shall mean any one of Her Majesty's Principal Secretaries of State: "The Secretary of State:"

"The Governor" shall as respects India mean the Governor General or the governor of any presidency, and where a British possession consists of several constituent colonies, mean the Governor General of the whole possession or the governor of any of the constituent colonies, and as respects any other British possession it shall mean the officer for the time being administering the government of such possession; also any person acting for or in the capacity of a governor shall be included under the term "governor:" "Governor:"

"Court of Admiralty" shall mean the High Court of Admiralty of England or Ireland, the Court of Session of Scotland, or any Vice-Admiralty Court within Her Majesty's dominions: "Court of Admiralty:"

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water: "Ship:"

"Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly: "Building:"

"Equipping:" "Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in or about a ship for the purpose of fitting or adapting her for the sea or for naval service, and all words relating to equipping shall be construed accordingly:

"Ship and equipment:" "Ship and equipment" shall include a ship and everything in or belonging to a ship:

"Master." "Master" shall include any person having the charge or command of a ship.

Repeal of Acts, and Saving Clauses.

Repeal of Foreign Enlistment Act. 59 Geo. 3, c. 69.

31. FROM and after the commencement of this Act, an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, chapter sixty-nine, intituled "An Act to prevent the enlisting or engagement of His Majesty's subjects to serve in foreign service, and the fitting out or equipping, in His Majesty's dominions, vessels for warlike purposes, without His Majesty's license," shall be repealed: Provided that such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid.

Saving as to commissioned foreign ships.

32. NOTHING in this Act contained shall subject to forfeiture any commissioned ship of any foreign state, or give to any British court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign state any jurisdiction which it would not have had if this Act had not passed.

Penalties not to extend to persons entering into military service in Asia. 59 Geo. 3, c. 69. s. 12.

33. NOTHING in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, state, or potentate in Asia, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty entering into the military service of princes, states, or potentates in Asia.

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33 & 34 VICTORIA. A.D. 1870.

CHAPTER CII.

An Act to amend the Law relating to the taking of Oaths of Allegiance on Naturalization.

[*10th August 1870.*]

33 & 34 Vict. c. 14. WHEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under the Naturalization Act, 1870:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Regulations as to oaths of allegiance.

1. THE power of making regulations vested in one of Her Majesty's Principal Secretaries of State by the Naturalization Act, 1870, shall extend to prescribing as follows:

(1) The persons by whom the oaths of allegiance may be administered under that Act:

(2) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested:

(3) The registration of such oaths:

(4) The persons by whom certified copies of such oaths may be given:

(5) The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:

(6) The proof in any legal proceeding of such oaths:

(7) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

Penalty on making false declaration.

2. ANY person wilfully and corruptly making or subscribing any declaration under the Naturalization Act, 1870, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanor, and be liable to imprisonment with or without hard labour for any term not exceeding twelve months.

Construction and short title of Act.

3. THIS Act shall be termed the Naturalization Oath Act, 1870, and shall be construed as one with the Naturalization Act, 1870, and may be cited together with that Act as the Naturalization Acts, 1870.

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34 & 35 VICTORIA. A. D. 1871.

CHAPTER XXXIV.

An Act to extend in certain respects the power of Local Legislatures in India as regards European British subjects.

[*29th June 1871.*]

WHEREAS it is expedient that the power of making laws and regulations conferred on Governors of Presidencies in India in Council by the Indian

Councils Act, 24 & 25 Vict. c. 67, sec. 42, should in certain respects be extended:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to Local Legislatures to confer jurisdiction over European British subjects to Magistrates in certain cases.

1. No law or regulation heretofore made or hereafter to be made by any Governor or Lieutenant Governor in Council in India in manner prescribed by the aforesaid Act shall be invalid only by reason that it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as such Governor or Lieutenant Governor in Council, by regulations made as aforesaid, could have lawfully conferred or could lawfully confer on magistrates in the exercise of authority over natives in the like cases.

Committal of defendant (being an European British subject) to the High Court. (Indian Act No. XXV of 1861, s. 226.)

2. WHEN evidence has been given in any proceeding under this Act before a magistrate, being a justice of the peace, which appears to be sufficient for the conviction of the accused person, being an European British subject, of an offence for which, if a native, he would under existing law be triable exclusively before the Court of Session, or which, in the opinion of the Magistrate, is one which ought to be tried by the High Court, the accused person, if such European British subject, shall be sent for trial by the Magistrate before the High Court.

Power to Local Legislatures to amend and repeal certain laws.

3. AND whereas by an Act passed by the Governor General of India in Council, Indian Act No. XXII of 1870, it is provided that certain Acts heretofore passed by the Governors of Madras and Bombay respectively in Council, and by the Lieutenant Governor of Bengal in Council, shall, so far as regards the liability of European British subjects to be convicted and punished thereunder, be and be deemed to be as valid as if they had been passed by the Governor General of India in Council at a meeting for the purpose of making laws and regulations: Be it further enacted, that the said Governors and Lieutenant Governor in Council respectively shall have power to repeal and amend any of the said Acts so declared valid, by Acts to be passed under the provisions of the Indian Councils Act.

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34 & 35 VICTORIA. A. D. 1871.

CHAPTER LXII.

An Act to enable Her Majesty to make regulations relative to the leave of absence of Indian Bishops on furlough and medical certificates.

[*31st July 1871.*]

WHEREAS by an Act passed in the fifth and sixth years of the reign of Her present Majesty, intituled "An Act to enable Her Majesty to grant

furlough allowances to the Bishops of Calcutta, Madras, and Bombay who shall return to Europe for a limited period after residing in India a sufficient time to entitle them to the highest scale of pension," it was provided that Her Majesty should be enabled from time to time to grant permission to any Bishop of Calcutta who should have resided in the East Indies for a period of ten years, and to any Bishop of Madras or Bombay who should have resided in the East Indies for a period of fifteen years, to return to Europe for a period not exceeding eighteen calendar months:

And whereas it is expedient to alter and amend the rule thus laid down:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same,

Power to Her Majesty to make rules for leave of absence for bishops, and as to expenses.

1. THAT it shall be lawful for Her Majesty to make such rules as to the leave of absence of Indian bishops on furlough or medical certificate as may seem to her expedient: Provided that no farther expenditure of the revenues of India be incurred thereby than is already authorized under existing Acts of Parliament; and provided also, that the provisions of existing Acts of Parliament are not interfered with by such rules so far as regards the present Bishop of Calcutta.

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34 & 35 VICTORIA. A. D. 1871.

CHAPTER XCI.

An Act to make further provision for the despatch of business by the Judicial Committee of the Privy Council.

[*21st August 1871.*]

WHEREAS it is expedient to make further provision for the despatch of business by the Judicial Committee of the Privy Council: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appointment of additional members of the Judicial Committee.

1. HER MAJESTY may within twelve months after the passing of this Act, by warrant under her Sign Manual, appoint four persons qualified as in this Act mentioned, whether already members of such Judicial Committee or not, to act as members of the Judicial Committee of the Privy Council under the provisions of this Act, and may from time to time within two years after the passing of this Act by a like warrant fill any vacancies occasioned by death or otherwise in the offices of the persons so appointed.

Any persons appointed to act under the provisions of this Act as members of the said Judicial Committee must be specially qualified as follows; that is

to say, must at the date of their appointment be or have been Judges of one of Her Majesty's Superior Courts at Westminster, or a Chief Justice of the High Court of Judicature at Fort William in Bengal, or Madras or Bombay, or of the late Supreme Court of Judicature at Fort William in Bengal.

Where any person appointed in pursuance of the provisions herein contained to act as a member of the said Judicial Committee is at the date of his appointment a judge as aforesaid, he shall on his appointment vacate his office as such judge, but as to pension shall remain in the same position as if no such appointment had been made; and service as a member of the Judicial Committee shall for the purposes of pension be reckoned as service in the court from which he was removed.

Whereas doubts have been entertained as to the meaning and effect of the provisions of the court of Probate Act and the Divorce Act as to the pension of the judge of the Probate and judge of the Divorce Courts: Be it declared and enacted, that the said pension was intended to be and shall be similar in amount and in all other respects to the pension to which the puisne judges of the superior courts of common law are entitled.

There shall be paid to each of the said Judges of the Judicial Committee so long as he shall hold such office a salary of five thousand pounds a year including any pension to which he may be entitled.

Any salary payable under this Act shall be charged on and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland. It shall grow due from day to day, and shall be payable to the person entitled thereto, or to his executors or administrators, at such intervals in every year, not being longer than three months, as the Treasury may from time to time determine.

It shall be the duty of every person appointed to act as a paid member of the Judicial Committee under this Act to attend the sittings of the said Committee when summoned thereto unless he shall be prevented by reasonable cause; and such members shall hold their office during good behaviour, and shall continue to hold their offices notwithstanding the demise of the Crown, but they shall be removable by Her Majesty, her heirs and successors, upon the address of both Houses of Parliament: Provided always, they shall hold their offices subject to such arrangements as may be hereafter made by Parliament for the constitution of a supreme court of appellate jurisdiction.

Provided that no member of the Judicial Committee of the Privy Council shall take part in the hearing of any appeal from any decision or judgment which he has given or assisted in giving.

2. In this Act— Definition of "Superior Courts at Westminster."

The term "Superior Courts at Westminster" means Her Majesty's Superior Courts of Law and Equity at Westminster, inclusive of the Court of Probate in England and the Court for Divorce and Matrimonial Causes, and the High Court of Admiralty of England.

3. This Act shall not, except in so far as is by this Act expressly provided, affect the Act of the session of the third and fourth years of the reign of King William the Fourth, chapter forty-one, intituled "An Act for the better administration of justice in His Majesty's Privy Council," or any Act amending the same. Saving of Acts relating to Judicial Committee.

4. This Act may be cited as the Judicial Committee Act, 1871, and shall, so far as is consistent with the tenor thereof, be construed as one with any Acts for the time being in force relating to the Judicial Committee of the Privy Council. Short title.

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34 & 35 VICTORIA. A. D. 1871.

Chapter CX.

An Act to amend the Merchant Shipping Acts.

[*21st August 1871.*]

Whereas it is expedient to amend the Merchant Shipping Acts:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as the Merchant Shipping Act, 1871. Short title.

2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1871. Act to be construed with Merchant Shipping Acts.

3. This Act shall come into operation on the first day of January one thousand eight hundred and seventy-two. Commencement of Act.

Registry (Part II. of Merchant Shipping Act, 1854).

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5. The Board of Trade may, in any case or class of cases in which they think it expedient so to do, direct any person appointed by them for the purpose to record, in such manner and with such particulars as the Board of Trade direct, the draught of water of any sea-going ship, as shown on the scale of feet on her stem and on her stern post, upon her leaving any dock, Ship's draught of water to be recorded.

wharf, port, or harbour for the purpose of proceeding to sea; and such person shall thereupon keep such record, and shall from time to time forward the same, or a copy thereof, to the Board of Trade; and such record, or any copy thereof, if produced by or out of the custody of the Board of Trade, shall be admissible in evidence of the draught of water of the ship at the time specified in the record.

The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water in the official log-book (if any), and shall produce such record to any principal officer of Customs whenever required by him so to do, or in default of such production shall incur a penalty not exceeding twenty pounds.

Rules to be observed in naming of ships.

6. With respect to the names of British ships, the following rules shall be observed:

(1) A ship shall not be described by any name other than that by which she is for the time being registered:

(2) No change shall be made in the name of a ship without the previous permission of the Board of Trade signified in writing under their seal, or under the hand of one of their secretaries or assistant secretaries. Upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern:

(3) If in any case it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without such permission as aforesaid, they shall direct that her name be altered into that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly:

(4) Where a ship having once been registered has ceased to be so registered, no person, unless ignorant of such previous registry, (proof whereof shall lie on him,) shall apply to register, and no registrar shall knowingly register, such ship, except by the name by which she was previously registered, unless with the permission of the Board of Trade granted as aforesaid.

Every person who acts or suffers any person under his control to act in contravention of this section, or who omits to do, or suffers any person under his control to omit to do, anything required by this section, shall for each offence incur a penalty not exceeding one hundred pounds, and any principal officer of Customs may detain the ship until the provisions of this section are complied with.

Application for a change of name shall be made in writing to the Board of Trade. If the Board are of opinion that the application is made on reasonable grounds they may entertain the same, and shall thereupon require notice thereof to be published in such form and manner as they think fit.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854).

Survey of ships alleged by seamen to be unseaworthy.

7. WHENEVER in any proceeding against any seaman or apprentice belonging to any ship for desertion, or for neglecting or refusing to join or to proceed to sea in his ship, or for being absent from or quitting the same without leave, it is alleged by one fourth of the seamen belonging to such ship, or, if the number of such seamen exceed twenty, by not less than five such seamen, that such ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence they may think it desirable to hear; the court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but if not so satisfied shall cause such ship to be surveyed.

Provided that no seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey under this section unless previously to his quitting his ship he has complained to the master of the circumstances so alleged in justification.

For the purposes of this section, the court shall require any of the surveyors appointed by the Board of Trade, under the Merchant Shipping Act, 1854, or any person appointed for the purpose by the Board of Trade, or, if such surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court may think fit to put. Such surveyor or other person shall survey the ship, and make his report in writing to the court, including an answer to every question put to him by the court. The court shall cause such report to be communicated to the parties, and unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before them in accordance with those opinions.

For the purposes of such survey, a surveyor shall have all the powers of an inspector appointed by the Board of Trade, under the Merchant Shipping Act, 1854.

The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the Mercantile Marine Fund. If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea, or, as the case may be, that the accommodation is sufficient, the costs of the survey shall be paid by the person or persons upon whose demand, or in consequence of whose allegation, the survey was made, and may be deducted by the master or owner out of the wages due or to become due to such person or persons, and shall be paid over to the Board of Trade.

If it is proved that the ship is not in a fit condition to proceed to sea, or, as the case may be, that the accommodation is insufficient, the costs of the survey shall be paid to the Board of Trade by the master or owner.

Power for naval courts to direct survey of ships.

8. ANY naval court may, if they think fit, direct a survey of any ship which is the subject of an investigation held before them, and such survey shall be made in the same way, and the surveyor who makes the same shall have the same powers, as if the survey had been directed by a competent court in the course of proceedings against a seaman or apprentice for desertion or a kindred offence.

* * * * * * * * *

Repeal of certain sections of 17 & 18 Vict. c. 104. and 18 & 19 Vict. c. 91.

12. ON and after the first day of January one thousand eight hundred and seventy-two, the twenty-fifth and thirty-fourth sections of the Merchant Shipping Act, 1854, and the thirteenth section of the Merchant Shipping Act Amendment Act, 1855, shall be repealed.

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35 & 36 VICTORIA. A. D. 1872.

CHAPTER XXXIX.

An Act for amending the Law in certain cases in relation to Naturalization.

[*25th July 1872.*]

WHEREAS by a convention between Her Majesty and the United States of America, supplementary to the convention of the thirteenth day of May one thousand eight hundred and seventy, respecting naturalization, and signed at Washington on the twenty-third day of February one thousand eight hundred and seventy-one, and a copy of which is contained in the Schedule to this Act, provision is made in relation to the renunciation by the citizens and subjects therein mentioned of naturalization or nationality in the presence of the officers therein mentioned:

And whereas doubts are entertained whether such provisions are altogether in accordance with the Naturalization Act, 1870: And whereas other doubts have arisen with respect to the effect of "The Naturalization Act, 1870," on the rights of women married before the passing of that Act; and it is expedient to remove such doubts:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as the Naturalization Act, 1872, and this Act and "The Naturalization Act, 1870," may be cited together as "The Naturalization Acts, 1870 and 1872."

Confirmation of renunciation of nationality under the convention.

2. ANY renunciation of naturalization or of nationality made in manner provided by the said supplementary convention by the persons and under the circumstances in the said convention in that behalf mentioned shall be valid to all intents, and shall be deemed to be authorized by the said Naturalization Act, 1870. This section shall be deemed to take effect from the date at which the said supplementary convention took effect.

Saving clause as to property of married women.

3. NOTHING contained in "The Naturalization Act, 1870," shall deprive any married woman of any estate or interest in real or personal property to which she may have become entitled previously to the passing of that Act, or affect such estate or interest to her prejudice.

SCHEDULE.

Convention between Her Majesty and the United States of America, supplementary to the Convention of May 13th, 1870, respecting naturalization.

Signed at Washington, 23rd February 1871.

[*Ratifications exchanged at Washington, May 4, 1871.*]

WHEREAS by the second article of the convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America for regulating the citizenship of subjects and citizens of the contracting parties who have emigrated or may emigrate from the dominions of the one to those of the other party, signed at London, on the 13th of May 1870, it was stipulated that the manner in which the renunciation by such subjects and citizens of their naturalization, and the resumption of their native allegiance, may be made and publicly declared, should be agreed upon by the governments of the respective countries; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the United States of America, for the purpose of effecting such

agreement, have resolved to conclude a supplemental convention, and have named as their plenipotentaries, that is to say, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to the United States of America; and the President of the United States of America, Hamilton Fish, Secretary of State; who have agreed as follows:

ARTICLE I.

Any person being originally a citizen of the United States who had, previously to May, 13, 1870, been naturalized as a British subject, may at any time before August 10, 1872, and any British subject who, at the date first aforesaid, had been naturalized as a citizen within the United States, may at any time before May 12, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended, and designated as annex A.

Such renunciation by an original citizen of the United States, of British nationality shall, within the territories and jurisdiction of the United States, be made in duplicate, in the presence of any court authorized by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such court: if the declarant be beyond the territories of the United States, it shall be made in duplicate, before any diplomatic or consular officer of the United States. One of such duplicates shall remain of record in the custody of the court or officer in whose presence it was made; the other shall be, without delay, transmitted to the department of State.

Such renunciation, if declared by an original British subject, of his acquired nationality as a citizen of the United States, shall, if the declarant be in the United Kingdom of Great Britain and Ireland, be made in duplicate, in the presence of a justice of the peace; if elsewhere in Her Britannic Majesty's dominions, in triplicate, in the presence of any judge of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in triplicate, in the presence of any officer in the diplomatic or consular service of Her Majesty.

ARTICLE II.

The contracting parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their diplomatic and consular officers, have declared their renunciation of naturalization, with the dates and places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

ARTICLE III.

The present convention shall be ratifind by Her Britannic Majesty, and by the President of the United States by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington as soon as may be convenient.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Washington, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy-one.

(L. S.) EDWD. THORNTON.
(L. S.) HAMILTON FISH.

(ANNEX A.)

I, *A. B*, of (*insert abode*), being originally a citizen of the United States of America (*or a British subject*), and having become naturalized within the dominions of Her Britannic Majesty as a British subject (*or as a citizen within the United States of America*), do hereby renounce my naturalization as a British subject (*or citizen of the United States*); and declare that it is my desire to resume my nationality as a citizen of the United States (*or British subject*).

(Signed) *A. B.*

Made and subscribed before me in (*insert country or other sub-division, and state, province, colony, legation, or consulate*), this day of 187

(Signed) *E. F.*,
Justice of the peace (or other title).

(L. S.) EDWD. THORNTON.

(L. S.) HAMILTON FISH.

35 & 36 VICTORIA. A. D. 1872.

CHAPTER LV.

An Act for making better provision for the erection of Lighthouses on the Great Basses Rock, and on the Little Basses Rock, in the colony of Ceylon.

[*6th August 1872.*]

WHEREAS by the Merchant Shipping Amendment Act, 1855, the commissioners of Her Majesty's Treasury and the public works loan commissioners are authorized to advance sums of money for the purpose of constructing a lighthouse on or near the coast of any British possession: 18 & 19 Vict. c. 91.

And whereas certain sums were advanced by the commissioners of Her Majesty's Treasury for the establishment of a light-ship near the Little Basses Rock off the coast of Ceylon, part of which has been repaid out of the dues received in respect of such light-ship, leaving a balance of eight thousand three hundred and thirty-six pounds or thereabouts due to the last-mentioned commissioners, and some further expenses to a small amount incurred in such establishment remain unpaid:

And whereas by the Basses Lights Act, 1869, the public works loan commissioners were required to advance, for the purpose of constructing a lighthouse on the Great Basses Rock, off the coast of Ceylon, a sum not exceeding seventy thousand pounds, at the rate of three and a quarter per cent. per annum, to be repayable within a period not exceeding fifty years, and the commissioners of Her Majesty's Treasury were authorized to guarantee, jointly with 32 & 33 Vict. c. 77.

the Secretary of State in Council of India, the principal and interest of such loan, and the said commissioners of Her Majesty's Treasury and Secretary of State (in this Act referred to as the guarantors) have given a joint guarantee for the said loan of seventy thousand pounds (in this Act referred to as the loan of 1869), of which sixty thousand pounds have been actually advanced upon such guarantee in pursuance of the said Act at interest at the rate of three and a quarter per cent. per annum:

And whereas by an order in Council of the eleventh day of November one thousand eight hundred and sixty-nine certain dues are required to be paid in respect of the Great Basses lighthouse and the Little Basses light-ship:

And whereas there is standing to the credit of the fund formed out of the dues received in respect of the Little Basses light-ship or of the Great Basses lighthouse and Little Basses light-ship a balance of seventeen thousand pounds or thereabouts:

And whereas it is expedient to pay out of the said balance such sum as remains due to the commissioners of Her Majesty's Treasury for the establishment of the Little Basses light-ship, and any further expense of such establishment remaining unpaid, and to make further provision for the purpose of the construction of the said lighthouse on the Great Basses Rock, and also of a lighthouse on the Little Basses Rock, in substitution for the Little Basses light-ship:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as "The Basses Lights Act, 1872."

Construction of Act with 17 & 18 Vict. c. 104. and 18 & 19 Vict. c. 91.

2. THIS Act shall be construed as one with the Merchant Shipping Act, 1854, and the Merchant Shipping Amendment Act, 1855 (in this Act referred to as the principal Acts,) and with the Basses Lights Act, 1869.

Loan by public works loan commissioners.

3. FOR the purpose of constructing lighthouses on the said Great Basses Rock and Little Basses Rock, the public works loan commissioners are hereby required to advance in pursuance of the principal Acts, out of the moneys at their disposal, which are applicable for advances under the Harbours and Passing Tolls, &c. Act, 1861, in addition to the loan of 1869, a sum or sums not exceeding in the whole seventy-five thousand pounds. The sums advanced by the public works loan commissioners in pursuance of this Act shall be secured on the fund formed out of the dues mentioned in this Act, and shall be repayable, as to each portion thereof, within a period not exceeding fifty years from the date of the advance of such portion.

When the aggregate amount borrowed from the public works loan commissioners in respect of the principal of the loan of 1869, and of the loan advanced in pursuance of this Act, does not exceed one hundred thousand pounds, the interest payable in respect thereof shall be at the rate of three pounds five shillings per annum on each hundred pounds; but when such aggregate amount exceeds one hundred thousand pounds, the interest payable in respect of one hundred thousand pounds shall be at the rate aforesaid, and the interest payable in respect of the excess shall be at the rate of five pounds per annum on each hundred pounds.

Substitution of lighthouse for light-ship in Order in Council as to dues.

4. As soon as a light is exhibited in the Little Basses lighthouse so much of the said Order in Council of the eleventh day of November one thousand eight hundred and sixty-nine as directs what dues are to be paid shall be construed as if Little Basses lighthouse were substituted therein for Little Basses light-ship, and while such order remains in force the dues shall be paid under the said order accordingly, in like manner as if a new order, altered as provided by this section, had been made in the manner and with the consent required by the principal Acts.

The dues payable in respect of the Great Basses lighthouse and the Little Basses lighthouse shall be altered only with the consent—

(*a*) so long as the said guarantee is in force, of the guarantors; and

(*b*) so long as any money is due to the public works loan commissioners in pursuance of this Act, of the commissioners of Her Majesty's Treasury.

Payment of balance due for Little Basses light ship.

5. As soon as may be after the passing of this Act all sums then remaining due to the commissioners of Her Majesty's Treasury for the establishment of the said Little Basses light-ship, and any futher expenses of such establishment remaining unpaid, shall be paid out of the balance standing to the credit of the fund formed out of the dues received in respect of such light-ship, or in respect of the Great Basses lighthouse and such light-ship, and the remainder of the last-mentioned balance shall form part of the fund formed by this Act.

Application of dues of Great and Little Basses lights.

6. The dues levied under the said Order in Council of the eleventh day of November one thousand eight hundred and sixty-nine, or any new order made in lieu thereof, in respect of the Great Basses lighthouse, and of the Little Basses lighthouse, (after deducting any expenses incurred in collecting the same,) shall form one fund, which shall be applied for the purpose of paying the expenses incurred in erecting and maintaining such lighthouses, and for no other purpose whatever; and the priority according to which such expenses shall be paid shall (so far as conveniently may be, and subject to any other arrangement made so long as the said guarantee is in force with the consent of the guarantors,) be as follows:

(1) The expenses of maintaining such lighthouses;

(2) Then the interest on the unpaid balance of the loan of 1869 and the loan advanced in pursuance of this Act:

(3) Then the amount for the time being required for repaying the principal of the loan of 1869 and the loan advanced in pursuance of this Act:

(4) Then the amount required for repaying pari passu to the guarantors all sums which they may respectively have paid on account of the said guarantee, with interest on such sums after the rate of five per cent. per annum from the time at which they were paid.

Until a light is exhibited in the Little Basses lighthouse the provisions of this section shall be construed as if the term "Little Basses lighthouse" included the Little Basses light-ship.

Saving for securities and guarantee under 32 & 33 Vict. c. 77.

7. NOTHING in this Act shall prejudice any security or guarantee given under the Basses Lights Act, 1869; and the loan of 1869 shall be secured on the fund formed out of the dues mentioned in this Act in like manner as if it were the same fund as the fund mentioned in the Basses Lights Act, 1869.

Repeal of sections 5 and 7 of 32 & 33 Vict. c. 77.

8. SECTIONS five and seven of the Basses Lights Act, 1869, are hereby repealed, without prejudice to anything duly done or suffered before the passing of this Act.

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35 & 36 VICTORIA. A. D. 1872.

CHAPTER LVI.

An Act to settle an annuity on the Honourable Blanche Julia, Countess of Mayo, in consideration of the eminent services of the late Earl of Mayo as Viceroy and Governor General of India.[a] [*6th August 1872.*]

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35 & 36 VICTORIA. A. D. 1872.

CHAPTER LXXIII.

An Act to amend the Merchant Shipping Acts and the Passenger Acts.

[*10th August 1872.*]

WHEREAS it is expedient to amend the Merchant Shipping Acts and the Passengers Acts:

Be enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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[a] It has been thought sufficient to print the title of this Statute.

Preliminary.

Short title.

1. THIS Act may be cited as the Merchant Shipping Act, 1872.

Commencement of Act.

2. THIS Act shall come into operation on the first day of January one thousand eight hundred and seventy-three.

Measurement of Ships.

Transfer to Board of Trade of duties of commissioners of Customs with respect to measurement of ships.

3. THE twenty-third, twenty-seventh, twenty-eighth, and twenty-ninth sections of the Merchant Shipping Act, 1854, the fourteenth section of the Merchant Shipping Act Amendment Act, 1855, and the fourth section of the Merchant Shipping Act, 1871, shall be read and construed as if the Board of Trade were therein named instead of the commissioners of Customs.

Registry.

Transfer to registrar general of seamen of duties of commissioners of customs with respect to registry of ships.

4. THE forty-sixth, fifty-fourth, ninety-second, and ninety-fourth sections of the Merchant Shipping Act, 1854, shall be read and construed as if the registrar general of seamen were therein named instead of the commissioners of customs, and the returns required to be transmitted by the said ninety-fourth section of the Merchant Shipping Act, 1854, shall be transmitted to the registrar general of seamen, and not to the Custom House in London, and the registrar general of seamen shall be called the registrar general of shipping and seamen.

Passenger Ships.

Transfer to Board of Trade of powers and duties of emigration commissioners.

5. THE sixth and seventh sections of the Passengers Act, 1855, except so much of the latter section as provides for the immunity of emigration officers, shall be repealed, and all powers and duties vested in or imposed on the emigration commissioners by the Passengers Act, 1855, and the Passengers Act Amendment Act, 1863, shall be transferred to and imposed on the Board of Trade.

In the construction and for the purposes of the said Acts, the name of the Board of Trade shall be deemed to be substituted for the name of the emigration commissioners, and anything which might, if this Act had not passed, have been done by the emigration commissioners, whether acting independently or under the sanction or authority of one of Her Majesty's Principal Secretaries of State, may be done by the Board of Trade independently of such sanction or authority.

Extension of penalties for offences connected with applications for assistance in emigration.

6. THE provisions contained in the eighty-third section of the Passengers Act, 1855, shall extend to any forms of application or other papers issued by or under the authority of one of Her Majesty's Principal Secretaries of State, for the use of persons desirous of emigrating by his assistance, and to any

certificate, document, or statement adduced in support of any application to such secretary for such assistance.

Transfer to Board of Trade of certain powers of Secretary of State under Passengers Act.

7. The powers conferred by the thirteenth section of the Passengers Act Amendment Act, 1863, on one of Her Majesty's Principal Secretaries of State, shall be transferred to the Board of Trade.

Annual Survey of Passenger Steamers.

Passenger steamers to be surveyed once in every year, according to 17 & 18 Vict. c. 104.

8. The three hundred and fourth section of the Merchant Shipping Act, 1854, shall be repealed, and every passenger steamer shall be surveyed once at the least in every year in the manner mentioned in the fourth part of that Act. The fees to be charged for certificates issued in respect of such survey shall not exceed for a yearly certificate twice the sum named in the table marked T. in the schedule to the said Act as chargeable for a six months certificate.

Pilotage.[a]

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General.

Duties of surveyors.

13. All duties in relation to the survey and measurement of ships under this Act or the Acts amended hereby shall be performed by the surveyors appointed under the fourth part of the Merchant Shipping Act, 1854, in accordance with such regulations as may be from time to time made by the Board of Trade.

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Penalty on surveyor, &c. receiving gratuity, &c. for duties performed under this Act.

15. If any surveyor, or any person employed under the authority of the Passengers Act, 1855, demands or receives directly or indirectly, otherwise than by the direction of the Board of Trade, any fee, remuneration, or gratuity whatever in respect of any of the duties performed by him under this Act or the Acts amended hereby, he shall for every such offence incur a penalty not exceeding fifty pounds.

Owner or agent of home trade ships may enter into time agreements which need not expire half-yearly.

16. The owner of home trade ships or his agent may enter into time agreements, in forms to be sanctioned by the Board of Trade, with individual seamen to serve in any one or more ships belonging to him, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December, anything in the Merchant Shipping Act to the contrary notwithstanding: Provided always, that a duplicate of each agreement entered into under the provisions of the section be forwarded to the Registrar General of Shipping within forty-eight hours after it has been entered into.

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[a] Sections 9, 10 and 11 are omitted as relating to the United Kingdom only. Section 12 is repealed by 37 & 38 Vic., c. 51, s. 8.

17. It shall be lawful for Her Majesty to accept from time to time the offers of any person whom the Lord High Admiral or the commissioners for executing his office may recommend, to serve as officers of reserve in the Royal Navy, upon such terms and conditions as to Her Majesty may from time to time seem fit, and the "officers of the Royal Naval Reserve Act, 1863," shall be read and construed as if this clause formed part of the said Act.

Her Majesty may accept offers of persons recommended by the Admiralty to serve as officers of the Royal Naval Reserve.

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36 VICTORIA. A. D. 1873.

Chapter XVII.

An Act to provide for the Redemption or Commutation of the Dividend on the Capital Stock of the East India Company, and for the transfer of the Security Fund of the India Company to the Secretary of State in Council of India, and for the Dissolution of the East India Company. [*15th May 1873.*]

Whereas it is expedient that provision should be made for the redemption or commutation of the dividend on the capital stock of the East India Company, and for the transfer of the security fund of the India Company to the Secretary of State in Council of India, and for the dissolution of the East India Company:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in the present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The East India Stock Dividend Redemption Act, 1873." Short title.

2. In this Act— Interpretation of terms.

"East India stock" means the capital stock of the East India Company:

The expresssion "proprietors of East India stock" means and includes all persons, bodies politic or corporate, and the executors or administrators of all persons in whose names any portion or share of East India stock may be standing in the books kept for or on behalf of the East India Company by the governor and company of the Bank of England.

3. The dividend now payable by law to the East India Company on East India stock shall be redeemed or commuted, as herein-after mentioned. The dividend on East India stock to be redeemed or commuted.

4. The dividend now payable by law to the East India Company on East India stock shall continue payable until the thirtieth day of April one thousand The dividend to cease from 30th April 1874.

eight hundred and seventy-four, and no longer: Provided always, that a proportionate part of the said dividend, and no more, shall become due for the period from the sixth day of January one thousand eight hundred and seventy-four, to the thirtieth day of April in the same year; and the payment of such proportionate part shall be made as near as may be in the manner in which the half-yearly payments of the said dividend are now made, and all powers of attorney in force at the time of the passing of this Act, or which may hereafter be granted, for the receipt of dividends to accrue on East India stock, shall, unless legally revoked, enable the attorney or attorneys therein named to receive the proportionate part of the dividend which will become due on the thirtieth day of April one thousand eight hundred and seventy-four.

Power to Secretary of State in Council of India to offer terms of commutation to proprietors of stock.

5. THE Secretary of State in Council of India may offer for the acceptance of the proprietors of East India stock, by way of commutation for their respective portions or shares of the dividend thereon, any stocks, funds, or securities which the Secretary of State in Council may have power to dispose of, or may be authorized by any Act of Parliament to create and issue; and any such offer may be made upon such terms and subject to such conditions as the Secretary of State in Council shall think fit.

Power to Secretary of State in Council to prescribe the manner in which the assents of proprietors are to be given, &c.

6. THE Secretary of State in Council may prescribe the manner in which the assents of the proprietors of East India stock to accept any of such stocks, funds, or securities as may be offered in respect of the proposed commutation are to be signified, and the period within which such assents are to be given, and may order that the transfer-books of East India stock be closed from such date as may, in the opinion of the Secretary of State in Council, be necessary or convenient.

East India Company to furnish necessary information, and to permit access to their books.

7. UPON the requisition of the Secretary of State in Council, the East India Company shall furnish the Secretary of State in Council with all necessary information as to the proprietors of East India stock, and shall permit any person or persons appointed by the Secretary of State in Council to have free access to the books kept for or on behalf of the said company by the governor and company of the Bank of England, and to take copies thereof or extracts therefrom.

Commutation may be offered to proprietors or to company.

8. THE Secretary of State in Council may offer the proposed commutation either directly to the proprietors of East India stock or to the East India Company, for the purpose of being communicated to the proprietors.

East India Company to comply with instructions of Secretary of

9. IN case the offer of the proposed commutation shall be made to the East India Company, the said company shall comply with such instructions as may from time to time be given by the Secretary of State in Council, and

shall furnish such certificates under the seal of the said company as the Secretary of State in Council may require.

State in Council, and to furnish certificates.

10. Her Majesty's paymaster-general and the accountant-general of the Court of Chancery in Ireland may, within such period as may be prescribed by the Secretary of State in Council, signify to the Secretary of State in Council, or to the East India Company, as the case may be, on behalf of any person or persons interested in East India stock, standing in the books kept for or on behalf of the said company as aforesaid to the account of the paymaster-general for the time being on behalf of the Court of Chancery, or in the name of the said accountant-general respectively, such assent as the said paymaster-general and accountant-general respectively may be directed to give by the Courts of Chancery in England and Ireland respectively, to accept and receive in lieu of such East India stock such stocks, funds, or securities as may be offered for the acceptance of the proprietors of East India stock by the Secretary of State in Council, and orders may be made in a summary way by the Courts of Chancery in England and Ireland, upon the application by summons in chambers of persons interested, for directing the said paymaster-general and accountant-general respectively as to signifying or not signifying such assent, and otherwise in relation thereto.

Power to paymaster-general, on behalf of Court of Chancery in England, and accountant-general of Court of Chancery in Ireland, to assent to proposed commutation.

Special orders may be made on application of persons interested.

After the expiration of the period prescribed by the Secretary of State in Council as aforesaid, the Courts of Chancery in England and Ireland respectively, may by general order direct the said paymaster-general and accountant-general respectively, within such further period as may be prescribed by the Secretary of State in Council, to signify, on behalf of the persons interested in East India stock standing in the books kept for or on behalf of the said company as aforesaid to the account of the paymaster-general for the time being on behalf of the Court of Chancery, or in the name of the said accountant-general respectively, in respect of which no special orders shall have been made under the provision herein-before contained, their assent to accept and receive in lieu of such East India stock such of the stocks, funds, or securities offered for the acceptance of the proprietors of East India stock by the Secretary of State in Council as the said Courts of Chancery respectively shall think fit; and the dividends to accrue on such stocks, funds, or securities as may be accepted in lieu of East India stock, under this provision, shall continue to be paid and dealt with in like manner as the dividends on such East India stock would have been paid and dealt with in case this Act had not been passed until the Court of Chancery shall make further order therein; and the said paymaster-general and accountant-general respectively shall be fully indemnified against all actions, suits, or proceedings for or in respect of

Power to Courts of Chancery to direct paymaster-general and accountant-general to assent where no special orders.

any act, matter, or thing done by them respectively in pursuance of this Act.

Power to executors, &c., to assent.

11. ALL executors, administrators, guardians, and trustees, and all committees of the estates of idiots and lunatics, who, as such, shall have the control over any portion or share of East India stock, standing either in their own names or in the name or names of any testator or intestate infant, idiot, or lunatic, or other person or persons, may signify such assent as aforesaid, at any time within such period as may be prescribed by the Secretary of State in Council; and all executors, administrators, guardians, trustees, and committees signifying such assent shall be severally and respectively indemnified in respect thereof: Provided always, that an assent for the purposes aforesaid, signed by one of such executors, administrators, guardians, trustees, or committees for and on behalf of himself and the others or other of them, shall be sufficient, and shall be binding and conclusive upon the others and other of them, and shall be acted upon by the Secretary of State in Council, as if the same had been signed by the whole of such executors, administrators, guardians, trustees, and committees, unless some one or more of them shall give notice to the Secretary of State in Council, or to the East India Company, as the case may be, previously to the expiration of the period to be prescribed by the Secretary of State in Council for signifying such assent, of his, her, or their dissent therefrom.

Conditions on which trustees, executors, and administrators may assent.

12. PROVIDED always, that in all cases in which any trustee, executor, or administrator shall hold or be entitled to any portion or share of East India stock upon trust for or for the benefit of any person or persons having a limited interest therein, or who may be under legal disability in respect thereof, no such trustee, executor, or administrator shall be at liberty to give notice of his assent to receive in lieu thereof any of the stocks, funds, or securities which may be offered by the Secretary of State in Council for the acceptance of the proprietors of East India stock by way of commutation as aforesaid, without the consent in writing of all persons beneficially interested in such stock if competent and willing to consent, but if such persons shall not agree, or if any of such persons shall be under legal disability, or if the trust be such that persons yet unborn may become interested under the same, then, and in any of such cases, every such trustee, executor, or administrator shall commute the stock so held by him in such manner only as a judge of the Court of Chancery in England or Ireland, or of the Court of Session in Scotland, shall direct: Provided also, that all applications for such purpose as last aforesaid, and every other application hereby authorized to be made to the Courts of Chancery in England and Ireland respectively, and to the Court of Session in Scotland, may be heard and disposed of in such manner, on the attendance

of such parties, and on such evidence as the Judge shall think fit, who shall have power to direct by whom or in what way the costs and expenses of such applications respectively shall be borne and defrayed.

Proprietors not assenting to commute, to receive on 30th April 1874, £200 sterling for £100 stock.

13. ALL proprietors of East India stock who shall not signify their assents to commute their respective shares of the dividend on the said stock, in accordance with the terms of commutation to be proposed by the Secretary of State in Council, shall, on the thirtieth day of April one thousand eight hundred and seventy-four, receive from the Secretary of State in Council the sum of two hundred pounds sterling for every one hundred pounds of the said stock, and so in proportion for any greater or less amount: Provided always, that the payment to such account as may be directed to be opened by the Secretary of State in Council at the Bank of England for the use of the proprietors of East India stock entitled thereto of any money payable under this provision in respect of the said stock, shall be a full discharge of the amount so paid, and the proprietors of the said stock, or their agents duly authorized, shall be at liberty to demand and receive payment from the said bank, upon application for that purpose on or at any time after the said thirtieth day of April one thousand eight hundred and seventy-four, of the sums so paid for the use of such proprietors respectively.

Payment to Bank of England for the use of proprietors of total amount payable, to be deemed payment to East India Company.

14. THE payment to such account as aforesaid at the Bank of England for the use of the proprietors of East India stock entitled thereto of the total amount payable in respect of the said stock shall be deemed to be a payment to the East India Company, within the meaning of the twelfth section of the Act third and fourth William the Fourth, chapter eighty-five, and a sufficient compliance with the provisions of the said section in that behalf.

Commissioners for reduction of national debt to transfer security fund of the India Company to account of Secretary of State in Council.

15. THE commissioners for the reduction of the national debt shall, immediately after the passing of this Act, transfer all stocks standing in their names on account of the security fund of the India Company, to such accounts as may be necessary to be raised in the books of the governor and company of the Bank of England, in respect of such stocks, and all such accounts respectively shall be intituled "the stock account of the Secretary of State in Council of India in respect of the security fund of the India Company;" and such commissioners shall also immediately after the passing of this Act pay all moneys, if any, in their possession at that time on account of the security fund of the India Company into the Bank of England to the credit of an account to be opened by the governor and company of the Bank of England, to be intituled "the account of the Secretary of State in Council of India in respect of the security fund of the India Company."

Power to

16. THE Secretary of State in Council, by letter of attorney executed by

Secretary of State in Council to grant letter of attorney for sale, &c. of stock on account of security fund.

two members of the Council, and countersigned by the Secretary of State or one of his under-secretaries, or his assistant under-secretary, may authorize all or any of the cashiers of the Bank of England to sell and transfer all or any part of the stock or stocks standing, or that may thereafter stand, in the books of the said bank to the accounts intituled "the stock account of the Secretary of State in Council of India in respect of the security fund of the India Company," and to purchase and accept stock on the said accounts, and to receive the dividends due and to become due on the several stocks standing, or that may thereafter stand, on the said accounts, and by any writing signed by two members of the Council and countersigned as aforesaid, may direct the application of the moneys to be received in respect of such sales and dividends; but no stock shall be purchased or sold and transferred by any of the said cashiers, under the authority of such general letter of attorney, except upon an order directed to the chief cashier and chief accountant of the Bank of England from time to time, and duly signed and countersigned as aforesaid.

Account how to be drawn upon.

17. THE account to be intituled "the account of the Secretary of State in Council of India in respect of the security fund of the India Company," to be opened at the Bank of England pursuant to this Act, shall be drawn upon by such person or persons, and in such manner as may from time to time be directed by the Secretary of State in Council, and the said account shall be deemed a public account.

No part of transferred stocks to be applied otherwise than to redemption of dividends until certain claims satisfied.

18. No part of the stocks to be transferred to the accounts to be intituled "the stock account of the Secretary of State in Council of India in respect of the security fund of the India Company," or of the dividends to accrue due on such stocks, or of the moneys to be paid to the account to be intituled "the account of the Secretary of State in Council of India in respect of the security fund of the India Company," or of the cash to arise from the temporary investment of moneys standing to such last-mentioned account, shall be applied to any purposes other than the redemption or commutation of the dividend on East India stock or the accumulation of a fund for the redemption of such dividend, unless and until the total amount payable for the use of proprietors of East India stock who shall not signify their assents to commute their respective shares of the dividend on the said stock shall have been actually paid to such account as shall be raised at the Bank of England in pursuance of the directions in that behalf hereinbefore contained.

Bonds or contracts to transfer East India stock to be deemed satisfied by

19. IN every case in which any person or persons shall, at the time of the passing of this Act, be bound by the condition of any bond or obligation, or by the terms of any instrument in writing, or by any agreement or contract, to transfer any amount of East India stock, the condition of such bond or

obligation, or the terms of such instrument in writing, or such agreement or contract, shall, unless such option and notice be declared and given as hereinafter provided, be deemed in law and equity to be satisfied by making a transfer of such an amount of any stocks, funds, or securities which may be offered by the Secretary of State in Council for the acceptance of the proprietors of East India stock, by way of commutation as aforesaid, as would upon an assent by a person entitled thereto be receivable in respect of such an amount of East India stock as under such condition, terms, agreement, or contract should be transferred; and where any person or persons shall, at the time of the passing of this Act, be bound by the condition of any bond or obligation, or by the terms of any instrument in writing, or by any agreement or contract, to pay half-yearly sums equal to the dividends on any specified amount of East India stock, every such bond, obligation, instrument, agreement, or contract shall be satisfied by the payment of half-yearly sums equal to the dividends of or upon such amount of any stocks, funds, or securities which may be offered by the Secretary of State in Council for the acceptance of the proprietors of East India stock, by way of commutation as aforesaid, as would upon an assent by a person entitled thereto be receivable in respect of such specified amount of East India stock.

transfer of equivalent amount of any stocks, funds, or securities offered by way of commutation, unless notice given.

As to payment of dividend.

20. In every case in which any East India stock shall have been transferred by way of loan, upon any condition in any bond or instrument, or under or upon any agreement or contract for the repayment of such loan, by the replacing the amount of stock so transferred, the person or persons who shall have made any such loan, his or their executors, administrators, or assigns, may declare an option, and give notice thereof in writing, and thereby require—but at the times, and on the terms, at and on which he or they might have required a re-transfer of the stock so lent—the repayment of two hundred pounds sterling for every one hundred pounds of East India stock so transferred by way of loan as aforesaid, and so in proportion for any greater or less amount, and every bond, obligation, instrument, agreement, or contract given, entered into, or made upon any such loan or contract, shall be deemed in every such case, in law and in equity, to entitle the person or persons who shall have made any such loan, his or their executors, administrators, or assigns, to such repayment in money, and in the meantime to receive interest according to the original contract, and to demand and recover the same respectively in any court in which any action, suit, process, or proceeding may be brought, instituted, or carried on upon any such bond, obligation, instrument, agreement, or contract, anything in any such bond or obligation, instrument, agreement, or contract, to the contrary notwithstanding.

Lenders of East India stock on contract to replace, may demand £200 sterling for every £100 stock.

21. Every power of attorney in force at the time of the passing of this

Powers of

attorney for sale or transfer of East India stock to authorize receipt of redemption money or assent to commutation.

Act or which may hereafter be granted for the sale or transfer of any East India stock, shall, unless legally revoked, remain in full force, for the purpose of enabling the attorney or attorneys therein named to give a legal discharge for the money which will become payable for the redemption of the dividend on such stock, in case an assent to accept other stocks, funds, or securities in lieu thereof may not have been signified under the provisions of this Act, or to assent to accept in lieu of the dividend on such East India stock any stocks, funds, or securities which may be offered by the Secretary of State in Council for the acceptance of the proprietors of East India stock, by way of commutation as aforesaid, and to sell or transfer the same accordingly.

Powers of attorney for receipt of dividends on East India stock to authorize receipt of dividends on stocks accepted in lieu thereof.

Every power of attorney in force at the time of the passing of this Act or which may hereafter be granted for the receipt of any dividends to accrue on any East India stock, shall, unless legally revoked, remain in full force, for the purpose of enabling the attorney or attorneys therein named to receive the dividends to accrue on any stocks, funds, or securities that may be accepted in lieu of the dividend on such East India stock, under the provisions of this Act.

Trusts as to stock commuted shall extend to stocks received by way of commutation.

22. ALL trusts, whether created by will or otherwise, existing either in whole or in part, and all directions contained in any will remaining unexecuted at the time of the passing of this Act, as to any East India stock, the dividend now payable on which may under this Act be commuted into other stocks, funds, or securities, or as to the payment or distribution of any dividends thereon, or as to the transfer of any such East India stock in any events specified in any such trusts or will, shall extend and be deemed and construed in all cases and in all courts of law and equity in the United Kingdom or elsewhere in any dominions or territories belonging to Her Majesty, to extend and to apply to all stocks, funds, or securities accepted in lieu of any East India stock, subject to or affected by any such trusts or will, for all purposes and in all cases in which such trusts or to which any such directions can be made applicable: Provided always, that in all cases in which any proportions or parts of any such East India stock are required to be transferred under any such trusts, or under the provisions of or directions contained in any will, or any proportion or part of any dividend arising from and out of any such stock is required to be paid or distributed, the transfer of any stocks, funds, or securities received by way of commutation of the dividend on such East India stock, and equivalent at the rate at which such commutation was effected, and the payment and distribution of the dividends payable upon such stocks, funds, or securities, shall be and be deemed and taken in all courts and for all purposes to be a due execution of such trusts, or of the directions contained in any such will, and shall fully discharge the trustee or trustees or executor or

executors making the same, who are hereby declared to be and are hereby fully indemnified in respect of such execution of any such trusts and executorship as aforesaid.

Questions as to trusts arising on commutations under this Act may be decided by Courts of Chancery in England or Ireland, or by the Court of Session in Scotland.

23. In every case in which any question may have arisen or may arise upon the execution of any trusts, or upon any distributions which may have been or may be made, or may remain to be made, by any trustees, executors, or administrators of or in relation to or arising out of any East India stock which may have been vested in any trustees, or which may have been distributable by any executors or administrators, or as to the application of any residue thereof, or as to the distribution or application of any stocks, funds, or securities that may be accepted in lieu of the dividend on any East India stock under the provisions of this Act, whether as to the powers or authorities of any such trustees, executors, or administrators, or as to the relative interests of any persons entitled under any such trusts or under wills to receive any annuities charged upon or arising or payable out of the proceeds of any such East India stock, and of any persons interested in any residue of any such stock, whether under any specific provision relating to any such trusts, or contained in any wills, or arising out of the execution of any wills by any executors, or the distribution of any estates by any administrators, and in all other cases whatsoever in which any question may arise in consequence of commutation under this Act, such trustees, executors, or administrators, and any persons entitled to or interested in any East India stock, the dividend on which is commuted under this Act, or any stocks, funds, or securities accepted in lieu of the dividend on such East India stock commuted under this Act, whether in reversion or otherwise, may make application to the Court of Chancery in England, or to the Court of Chancery in Ireland, or to the Court of Session in Scotland, in a summary way, by motion or petition, or summons at chambers; and the Courts of Chancery in England or Ireland respectively, or the Court of Session in Scotland, may make general orders in relation to any such question, or special orders in a summary way upon any such application or as to any other matter or thing relating to any such stock, stocks, funds, or securities, or to any dividend thereon, and all trustees, executors, administrators, and other persons acting under any orders made by any of such courts respectively, or whose acts shall be confirmed by any of such courts respectively, if done before any application made to any of the said courts respectively, shall be and are hereby fully indemnified against all actions, suits, or proceedings for or in respect of any act, matter, or thing done by them respectively in pursuance of or under any such order, or which shall be confirmed by any such order; and in case any action, suit, or other proceeding be commenced or instituted against any such trustee, executor, administrator,

or other person for or in respect of any such act, matter, or thing, the court in which such action, suit, or proceeding shall be commenced, or shall be pending, shall upon summary application stay such action, suit, or proceeding, and make such order relative to the costs thereof as such court may think expedient.

Transfer of unclaimed redemption money to Secretary of State in Council.

24. ALL principal sums of money payable to any proprietors of East India stock, the dividend whereon is redeemed in pursuance of this Act, which shall not be claimed for ten years after the thirtieth day of April one thousand eight hundred and seventy-four, or for such period after the thirtieth day of April one thousand eight hundred and seventy-four, as with the period immediately preceding the said thirtieth day of April, during which the dividends on such stock shall not have been claimed, shall make up ten years, shall be transferred to the account of the Secretary of State in Council at the Bank of England.

List of names in which the stock stood in respect whereof redemption money unclaimed.

25. IMMEDIATELY after every such transfer as last aforesaid the name or names in which the stock stood on the thirtieth day of April one thousand eight hundred and seventy-four, the residence and description of the parties, the amount transferred, and the date of transfer, shall be entered on a list to be kept for the purpose by the Secretary of State in Council, which list shall be open for inspection at such place and at such times as the Secretary of State in Council shall appoint.

Dividends unclaimed for ten years to be transferred to Secretary of State in Council.

26. ON the the thirtieth day of May one thousand eight hundred and seventy-four, the East India Company shall pay to the account of the Secretary of State in Council at the Bank of England, all dividends that have become payable on any portions or shares of East India stock on or since the sixth day of July one thousand eight hundred and thirty-four, which shall not have been claimed for ten years before the said thirtieth day of May one thousand eight hundred and seventy-four, together with all dividends accrued due within the said period of ten years in respect of the same portions or shares of stock and then remaining unclaimed.

Other unclaimed dividends to be transferred to East India stock dividend account.

27. ALL other dividends on any portions or shares of East India stock remaining unclaimed on the said thirtieth day of May one thousand eight hundred and seventy-four, shall be paid by the East India Company to an account to be opened at the Bank of England and to be intituled "East India Stock dividend account;" and such dividends, when claimed within the period of ten years from the date of the same having accrued due, shall be paid by the Bank of England out of such account. Any dividend on that account, if and when unclaimed for the period of ten years from the date of such dividend having accrued due, and all dividends subsequently accrued due in respect of the same portion or share of stock and unclaimed, shall be

Dividends on that account unclaimed for ten years to be transferred to Secretary

transferred to the account of the Secretary of State in Council at the Bank of England. of State in Council.

28. ALL principal sums of money and dividends transferred or paid to the account of the Secretary of State in Council in pursuance of the directions hereinbefore contained, shall be held by the Secretary of State in Council and applied as part of the revenues of India, subject to the claims of the parties entitled thereto. Redemption money and dividends transferred to Secretary of State in Council to be applied as part of revenues of India.

29. THE Secretary of State in Council shall pay any principal sums of money and dividends so transferred or paid to the account of the Secretary of State in Council to any person showing his right thereto to the satisfaction of the Secretary of State in Council. Re-payment to person showing title.

But in case the Secretary of State in Council is not satisfied of the right of any person claiming to be entitled to any such principal moneys or dividends, the claimant may apply by petition in respect thereof in a summary way to the Court of Chancery.

The petitions shall be served upon the solicitor to the India Office, and the court shall make such order thereon (for payment of the principal moneys and dividends to which the petition relates, or otherwise), and in respect of the costs of the application, as to the court seems just.

30. PRINCIPAL sums exceeding the sum of twenty pounds shall not be paid, nor shall dividends exceeding twenty pounds in the whole be paid to a claimant under the preceding section of this Act until three months after application made for the same, nor until public notice has been given thereof as hereinafter provided. Three months notice before payment.

31. THE Secretary of State in Council shall require the applicant to give such public notice as the Secretary of State in Council shall think fit by advertisements in one or more newspapers circulating in London and elsewhere. Advertisements before payment.

Every such notice shall state the name or names, residence, and description of the person or persons in whose name or names the stock stood on the thirtieth day of April one thousand eight hundred and seventy-four, the amount of the stock, the name of the claimant, and the time at which payment of the principal money due in respect thereof, and of the dividends, if any, will be made, if no other claimant sooner appears and makes out his claim.

Where any such payment is ordered by the Court of Chancery the notice shall also state the purport of the order.

32. AT any time before payment to a claimant any person may apply to the Court of Chancery by motion or petition to rescind or vary any order made for such payment. Application to court to rescind order.

Secretary of State in Council not responsible to second claimant.

33. WHERE any principal moneys or dividends having been paid as aforesaid to a claimant by the Secretary of State in Council are afterwards claimed by another person, the Secretary of State in Council shall not be responsible for the same to such other claimant, but such other claimant may have recourse against the person to whom payment was made.

Order in favour of second claimant, showing title.

34. PROVIDED that if in any case a new claimant establishes his title to any principal moneys or dividends paid to a former claimant, and is unable to obtain payment thereof from the former claimant, the Court of Chancery shall, on application by petition by the new claimant, verified as the Court requires, order the Secretary of State in Council to pay to the new claimant such sum of money, or make such other order on the application, as the court thinks just.

Delivery of books and documents relating to East India stock to Secretary of State in Council.

35. UPON or as soon as conveniently may be after the thirtieth day of April one thousand eight hundred and seventy-four, all such books and documents as concern the ownership of shares in East India stock, and the payments to the proprietors of East India stock of their respective shares of the dividend thereon, shall be delivered into the care and custody of the Secretary of State in Council, as the Secretary of State in Council may direct.

Dissolution of East India Company.

36. ON the first day of June one thousand eight hundred and seventy-four, and on payment by the East India Company of all unclaimed dividends on East India stock to such accounts as are hereinbefore mentioned in pursuance of the directions hereinbefore contained, the powers of the East India Company shall cease, and the said Company shall be dissolved.

Indemnity to East India Company, commissioners for reduction of national debt, and Bank of England.

37. THIS Act shall be and is hereby declared to be a full and complete indemnity and discharge to the East India Company, and the directors thereof, and the commissioners for the reduction of the national debt, and the governor and company of the Bank of England, their officers and servants, and every of them, for all things done or permitted to be done pursuant thereto, and the same shall not be questioned or impeached in any court of law or equity whatever to their prejudice or detriment.

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36 VICTORIA. A. D. 1873.

CHAPTER XXXII.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.[a]

[*16th June 1873.*]

WHEREAS the security fund of the India Company created by Act third

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[a] Repealed in part, 37 & 38 Vic., c. 3, s. 15.

and fourth William Fourth, chapter eighty-five, is insufficient to redeem or commute the capital stock of the East India Company, and it is expedient that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India, in order to redeem or commute such capital stock, and also, to a limited amount, for temporary purposes:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to the Secretary of State in Council of India to raise any sums not exceeding 8,000,000*l.*

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times, to raise in the United Kingdom for the service of the Government of India, such sum or sums of money not exceeding in the whole six millions of pounds sterling, as may be requisite to effect such redemption or commutation, such sum or sums to be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others, and also to raise any further sum or sums of money not exceeding two millions of pounds sterling due at any one time, such last-mentioned sum or sums to be raised by the creation and issue of bonds and debentures, but not of capital stock bearing interest, or of annuities.

Provided always, that, at the end of each of the half-years ending on the thirty-first day of March and the thirtieth day of September in every year, the Secretary of State in Council shall prepare or cause to be prepared a return of all loans raised in England under the provisions of this Act or of any other Acts, chargeable on the revenues of India outstanding at the commencement of each half-year, with the rates of interest payable thereon, and the date of the termination of each loan, the debt incurred during the half-year, the moneys raised thereby during the half-year, the loans paid off or discharged during the half-year, and the loans outstanding at the close of the half-year, stating, so far as the public convenience will allow, the purpose or service for which moneys have been raised during the half-year; and that a similar return shall also be prepared of all loans raised in India; that such returns shall be presented to both Houses of Parliament within fifteen days after the expiration of the said half-yearly periods as regards the loans raised in England, and within three months as regards the loans raised in India, if Parliament be then sitting, or if not sitting, then within one week after Parliament shall be next assembled.

Bonds may be issued under the

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the

hands of two members of the Council, countersigned by Secretary of State.

Secretary of State for India, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Debentures may be issued.

3. ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures, or by any debentures issued by the Secretary of State in Council of India under the authority of former Acts, shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England.

Debentures transferable by delivery.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures; and the

Coupons by delivery.

coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery.

Capital stock and annuities may be created and issued.

6. ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act, shall be at such rate per centum per annum, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

7. IN case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or

their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities deemed personal estate.

8. ALL annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise.

The whole amount charged on revenue of India not to exceed 8,000,000*l.*

9. THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed eight millions, nor shall it be lawful to increase under this Act the permanent debt in England, secured on the revenues of India, beyond six millions, or such lesser sum as may be required to redeem or commute the said capital stock.

Power to raise money for payment of principal money.

10. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

Securities, &c. to be charged on revenues of India.

11. ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Provisions as to compositions for stamp duties on India bonds extended to bonds, &c. under this Act.

12. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of

13. ALL provisions now in force in anywise relating to the offence of

debentures to be punishable as forgery of East India bonds.

forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c. and presented to Parliament.

14. PROVIDED always, that after this Act shall have come into operation, the said Secretary of State in Council shall, on or before the first day of May in each year, prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act and of the Acts of the twenty-first Victoria, chapter three, twenty-second Victoria, chapter eleven, twenty-second and twenty-third Victoria, chapter thirty-nine, twenty-third and twenty-fourth Victoria, chapter one hundred and thirty, twenty-fourth and twenty-fifth Victoria, chapter twenty-five, and thirty-second and thirty-third Victoria, chapter one hundred and six; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of India, at home and abroad, up to the latest period of time to which such return can be made out, which return shall show, under the various heads of loans, debts, and liabilities, the amounts outstanding at the beginning of the last year included therein, the loans, debts, and liablities raised or incurred within that year, the amounts paid off or discharged during that year, and the amounts under the various heads remaining at the end of that year, showing the loans, debts, and liabilities in England and India, separately and combined; and such return shall also show the purposes generally for which the moneys raised during that year have been applied or are intended to be applied; that all such returns shall be presented to both Houses of Parliament within the first fourteen days during which Parliament may be sitting next after the first day of May in each year, and the provisions of any of the said Acts by which such returns are directed to be made at certain dates therein specified are, so far as regards such dates, hereby repealed.

Saving powers of the Secre- of State in Council.

15. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

Stock created hereunder to be deemed East India stock.

16. ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide; and any capital stock created under this Act or under the Act of the thirty-second and thirty-third Victoria, chapter one hundred and six, shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding.

36 & 37 VICTORIA. A. D. 1873.

CHAPTER XLIII.

An Act to enable Indian Railway Companies to issue and register Shares and Securities in India.

[*21st July 1873.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Every Indian railway company may establish offices in India for the issue and registration of shares.

1. EVERY company now formed, or which shall hereafter be formed, whether by amalgamation or otherwise, for constructing, maintaining, and working railways in India, may establish at such places in India as they think fit an office for the issue, registration, and transfer of shares, stock, bonds, and securities of the company, and the registration of transfers of shares, stock, bonds, and securities, and the registration of shareholders, and may from time to time remove or alter the place of any such office, and may make such regulations, consistent with the provisions of this Act, as they think fit, for enabling and facilitating the issue, registration, and transfer of shares, stock, bonds, and securities, and the registration of transfers of shares, stock, bonds, and securities, and the registration of shareholders at such office, and all and every the powers and provisions in relation to the issue, transfer, and registration of shares, stock, bonds, and securities, and the registration of transfers of shares, stock, bonds, and securities, and the registration of shareholders in Great Britain, contained in any deed of settlement or Act of Parliament under or by which the company shall be constituted or governed, shall apply and be in force as to the shares, stock, bonds, and securities, and the registration of transfers thereof, and the registration of shareholders, to be issued, transferred, registered and made at such office in India, except so far as the same are inconsistent with the provisions of this Act.

Registers to be kept in India.

2. EVERY such company may keep at their office in India books to be called respectively "the India register of shareholders," "the India register of holders of consolidated stock," "the India shareholders address book," "the India register of transfers," and also books for the registration of bonds, debentures, mortgages, and the debenture stock, and the transfers thereof respectively, and the books so kept shall be of the like validity and effect as the books kept for the like purposes by the company in England, and accounts of all entries and alterations made in the books of the company in

India shall be transmitted to the principal office of the same company in England.

Registers at several offices in India to be distinguished.

3. PROVIDED always, that if and when the company have offices in India at more places than one, then the company shall substitute for or add to the word "India" in the titles of the register kept at every such office, the name of the place at which the particular office is established.

Where transfers to be registered.

Shares, &c. to be registered at one office only.

4. ALL transfers of any such shares, stock, bonds, and securities as aforesaid shall be made at the office at which the same respectively shall for the time being be registered, and no share, stock, bond, or security shall be on the registry of more than one office at one and the same time: Provided always, that the company may keep in England duplicates of any of its books of register kept in India, but no such duplicate book shall be deemed a register.

Shares, &c. may be transferred from one register to another at the option of the holder.

5. SUBJECT to the regulations from time to time made by such companies respectively, with respect to the issue, registration, and transfer of shares, stock, bonds, and securities respectively, and the registration of transfers of shares, stock, bonds, and securities respectively, every such company may and shall, on notice in writing by the holder of any share, stock, bond, or security to the person for the time being acting as secretary, managing director, or principal clerk at the office in England or in India where such share, stock, bond, or security shall then be registered, transfer the share, stock, bond, or security from the register thereof at that office to the corresponding register at any other office of the company where for the time being a register shall be kept to be appointed and named in such notice, and as soon as conveniently may be after the receipt of any such notice such secretary, managing director, or principal clerk shall transmit advice thereof to the office to which the transfer is directed to be made.

Locality of shares, &c.

6. FOR the purpose of determining any question as to the place or jurisdiction within which any share, stock, bond, or security shall be deemed to be or to have been situate at any given time, the locality, whether in India or in Great Britain, of the register in which such share, stock, bond, or security shall be or have been actually registered for the time being, shall be deemed to be or have been at such time the locality of such share, stock, bond, or security, and so soon as notice shall have been given as aforesaid for the transfer of any share, stock, bond, or security from one register to another, the share, stock, bond, or security shall for the purpose of this section be deemed to be actually registered in the register to which it is so directed to be transferred.

Saving of rights.

7. NOTHING in this Act shall interfere with or affect any powers which are now vested in any Indian railway company by any Acts of Parliament by which the company is governed.

36 & 37 VICTORIA. A. D. 1873.

CHAPTER LIX.

An Act for regulating and extending the Jurisdiction in matters connected with the Slave Trade of the Vice-Admiralty Court at Aden, and of Her Majesty's Consuls under Treaties with the Sovereigns of Zanzibar, Muscat, and Madagascar, and under future Treaties.[a]

[*5th August 1873.*]

WHEREAS treaties for the more effectual suppression of the slave trade have been made by or on behalf of Her Majesty with chiefs or states in Arabia, and on the shores of the Persian Gulf, and on the east coast of Africa, and in the islands of Madagascar and Zanzibar, and the Comoro islands:

And whereas by the Foreign Jurisdiction Act, 1843, it was among other things enacted "that it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:" 6 & 7 Vict. c. 94.

And whereas by various treaties Her Majesty is empowered to exercise jurisdiction within the dominions of the Sultan of Zanzibar, the Imaum of Muscat, and the Sovereign of Madagascar, in regard to vessels captured on suspicion of being engaged in the slave trade:

And whereas by an Order in Council relating to the dominions of the Sultan of Zanzibar, and dated the ninth day of August one thousand eight hundred and sixty-six, and another Order in Council relating to the dominions of the Imaum of Muscat, and dated the fourth day of November one thousand eight hundred and sixty-seven, and a third Order in Council relating to the dominions of the Sovereign of Madagascar, and dated the fourth day of February one thousand eight hundred and sixty-nine, it was in each case ordered that Her Majesty's consul within the dominions to which the order relates should, for and within the said dominions, and in regard to vessels captured on suspicion of being engaged in the slave trade within those dominions, have all such jurisdiction as for the time being ordinarily belongs to courts of vice-admiralty in Her Majesty's possessions abroad:

And whereas a vice-admiralty court has been established at Aden, but has only a limited jurisdiction in matters relating to the slave trade:

And whereas by "The Slave Trade Jurisdiction (Zanzibar) Act, 1869," 32 & 33 Vict. c. 75.

[a] Amended and repealed in part, by 42 & 43 Vic., c. 38.

provision was made for the exercise of the said jurisdiction by Her Majesty's consul within the dominions of the Sultan of Zanzibar:

And whereas it is expedient to make further provision for the exercise of the said jurisdiction by Her Majesty's consuls within the dominions of the Sovereigns of Zanzibar, Muscat, and Madagascar, and for the exercise of jurisdiction in matters relating to the slave trade by the Vice-Admiralty Court at Aden:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the Slave Trade (East African Courts) Act, 1873.

Definition of terms.

2. IN this Act—

The term "vessel" means any vessel used in navigation:

The term "treaty" includes any convention, agreement, engagement, or arrangement:

The term "foreign state" includes any foreign nation, people, tribe, sovereign, prince, chief, or headman:

The term "existing East African slave trade treaty" means a treaty made by or on behalf of Her Majesty with any foreign state in Arabia or on the east coast of Africa, or the shores of the Persian Gulf, or in any island lying off Arabia, or off such coast or shores, including the islands of Zanzibar and Madagascar and the Comoro islands, for the more effectual suppression of the slave trade, and in force at the passing of this Act:

. . . . . .

Jurisdiction of courts in regard to slave vessels, slaves, goods, and effects.

3. ALL jurisdiction which is by any Act conferred on the Vice-Admiralty Courts in Her Majesty's possessions abroad, in regard to British vessels seized by the commander or officer of any of Her Majesty's ships on suspicion of being engaged in or fitted out for the slave trade, and in regard to the persons, slaves, goods, and effects on board thereof, is hereby conferred on the East African courts, in regard to vessels seized by the commander or officer of any of Her Majesty's ships on suspicion of being engaged in or fitted out for the slave trade, and to the persons, slaves, goods, and effects on board thereof, in the following cases; namely,

(1) where the vessel seized is a British vessel;

(2) where the vessel seized has been seized in pursuance of any existing East African slave trade treaty; and

(3) where the vessel seized is not shown to the court to be entitled to claim the protection of the flag of any foreign state.

Each of the East African courts shall have the same jurisdiction in regard to any person who has been seized either at sea or land, on the ground that he has or is suspected to have been detained as a slave, for the purpose of the slave trade, as the court would have under this section if he had been so detained on board a vessel that was seized and brought in for adjudication.

All jurisdiction exercised under this section shall for the purposes of any such Act as above mentioned be deemed to be exercised in pursuance of that Act.

Appeal to Her Majesty in Council.

4. The provisions of the Vice-Admiralty Courts Act, 1863, with respect to appeals to Her Majesty in Council from any decree or order of a Vice-Admiralty Court shall apply, mutatis mutandis, to appeals from any decree or order of the East African courts made or purporting to be made in the exercise of their jurisdiction under this Act.

Making of rules and tables of fees under 26 & 27 Vict. c. 24. ss. 14 to 18.

5. The provisions of the Vice-Admiralty Courts Act, 1863, with respect to rules touching the practice to be observed in the Vice-Admiralty Courts, and table of fees to be taken by the officers and practitioners thereof, shall apply in like manner as if they were herein enacted, with the substitution of the East African Courts for the Vice-Admiralty Courts, and of the place in which any such court is held for the British possession in which the Vice-Admiralty Court is established.

Application of Act to cases already adjudicated.

6. This Act shall apply to all cases of vessels, slaves, goods, and effects seized by the commander or officer of any Her Majesty's ships, and adjudicated upon by any of the East African courts, whether before or after the passing of this Act.

Extension of Act to future treaties.

7. Where any treaty in relation to the slave trade is made after the passing of this Act, by or on behalf of Her Majesty, with any foreign state in Arabia, or on the east coast of Africa, or on the shores of the Persian Gulf, or in any island lying off Arabia or off such coast or shores, including the islands of Zanzibar and Madagascar and the Comoro islands, Her Majesty may by Order in Council direct that as from such date, not being earlier than the date of the treaty, as may be specified in the order, such treaty shall be deemed, and thereupon (as from the said date, or if no date is specified, as from the date of such order) such treaty shall be deemed to be an existing East African slave trade treaty within the meaning of this Act, and the provisions of this Act shall apply and be construed accordingly.

Her Majesty may by such order, or any subsequent order referring to the same treaty, render the application of this Act subject to such conditions, exceptions, and qualifications as may be deemed expedient, and limit or exclude the jurisdiction of any of the East African courts.

Her Majesty may by such order, or any subsequent order referring to the same treaty, direct that any court, consul, or person authorized by or in

pursuance of an Order in Council to exercise within the dominions of the foreign state with whom the treaty is made jurisdiction in matters relating to the slave trade, shall, subject to the conditions, exceptions, and limitations, if any, contained in the order, exercise all the jurisdiction conferred by this Act on the East African courts; and such court, consul, or person when exercising such jurisdiction, shall be deemed to be one of the East African courts within the meaning of this Act.

Every such order shall recite or embody the terms of the treaty, so far as they relate to the slave trade, and shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the London Gazette.

A treaty, whether made before or after the passing of this Act, which ceases to be in force, shall cease to be an existing East African slave trade treaty within the meaning of this Act.

Act in schedule repealed.

8. The Act specified in the schedule to this Act is hereby repealed.

Provided that—

(1) all bounties and other sums purporting to have been paid in pursuance of any enactment hereby repealed before the passing of this Act shall be deemed to have been duly paid:

(2) this repeal shall not affect—

(*a*) anything duly done or suffered under any enactment hereby repealed; or

(*b*) any right, privilege, obligation, liability, or forfeiture acquired, accrued, or incurred under any enactment hereby repealed; or

(*c*) any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, or forfeiture as aforesaid, or any legal proceeding taken or commenced under any enactment hereby repealed; and any such investigation, legal proceeding, and remedy may be carried on and all acts consequential thereon done as if it had been commenced under this Act.

SCHEDULE.

Year and chapter.	Title.
32 & 33 Vict. c. 75 ...	An Act to regulate and extend the jurisdiction of Her Majesty's consul at Zanzibar in regard to vessels captured on suspicion of being engaged in the slave trade, and for other purposes relating thereto.

36 & 37 VICTORIA. A. D. 1873.

CHAPTER LX.

An Act to amend the Extradition Act, 1870.

[*5th August 1873.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Construction of Act and short title. 33 & 34 Vict. c. 52.

1. THIS Act shall be construed as one with the Extradition Act, 1870, (in this Act referred to as the principal Act,) and the principal Act and this Act may be cited together as the Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.

Explanation of sect. 6 of 33 & 34 Vict. c. 52.

2. WHEREAS by section six of the principal Act it is enacted as follows:

"Where this Act applies in the case of any foreign state, every fugitive "criminal of that state who is in or suspected of being in any part of Her "Majesty's dominions, or that part which is specified in the order applying "this Act (as the case may be), shall be liable to be apprehended and sur- "rendered in manner provided by this Act, whether the crime in respect of "which the surrender is sought was committed before or after the date of the "order, and whether there is or is not any concurrent jurisdiction in any "court of Her Majesty's dominions over that crime."

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

a crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly.

Liability of accessories to be surrendered.

3. WHEREAS a person who is accessory before or after the fact, or counsels, procures, commands, aids, or abets the commission of any indictable offence, is by English law liable to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such

crime, and shall be liable to be apprehended and surrendered accordingly.

Explanation of sect. 14 of 33 & 34 Vict. c. 52. as to statements on oath including affirmations.

4. BE it declared, that the provisions of the principal Act relating to depositions and statements on oath taken in a foreign state, and copies of such original depositions and statements, do and shall extend to affirmations taken in a foreign state, and copies of such affirmations.

Power of taking evidence in United Kingdom for foreign criminal matters.

5. A SECRETARY of State may, by order under his hand and seal, require a police magistrate or a justice of the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign state; and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Explanation of sect. 16 of 33 & 34 Vict. c. 52.

6. THE jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate.

Explanation of diplomatic representative and consul.

7. FOR the purposes of the principal Act and this Act a diplomatic representative of a foreign state shall be deemed to include any person recognized by the Secretary of State as a consul general of that state, and a consul or vice-consul shall be deemed to include any person recognized by the governor of a British possession as a consular officer of a foreign state.

Addition to list of crimes in schedule.

8. THE principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:

Kidnapping and false imprisonment.

Perjury, and subornation of perjury, whether under common or statute law.

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act. 24 & 25 Vict. c. 96., &c.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter ninety-seven, "to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter ninety-eight, "to consolidate and amend the statute law of England and Ireland, relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter ninety-nine, "to consolidate and amend the statute law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter one hundred, "to consolidate and amend the statute law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

36 & 37 VICTORIA. A. D. 1873.

CHAPTER LXXXV.

An Act to amend the Merchant Shipping Acts.

[*5th August 1873.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. THIS Act may be cited as the Merchant Shipping Act, 1873.

Construction of Act.

2. THIS Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1873.

Registry (Part II. of Merchant Shipping Act, 1854).

Particulars to be marked on British ships.

3. EVERY British ship registered after the passing of this Act shall before registry, and every British ship registered before the passing of this Act shall on or before the first day of January one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows:

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth:

Her official number and the number denoting her registered tonnage shall be cut in on her main beam:

A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve.

The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them.

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds. The marks required by this

section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts, 1854 to 1873.

Any owner or master of a British ship who neglects to cause his ship to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds, and any officer of customs on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked may detain the same until the insufficiency or inaccuracy has been remedied.

Provided that no fishing vessel duly registered, lettered and numbered in pursuance of the Sea Fisheries Act, 1868, shall be required to have her name and port of registry marked under this section.

Provided also, that if any registered British ship is not within a port of the United Kingdom at any time before the first day of January one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a British port of registry subsequent to that date.

Particulars to be entered in record of draught of water.

4. The record of the draught of water of any sea-going ship required under section five of the Merchant Shipping Act, 1871, shall, in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers anyone under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.

Rules as to names of foreign ships placed on British register.

5. Where a foreign ship, not having at any previous time been registered as a British ship, becomes a British ship, no person shall apply to register, and no registrar shall knowingly register such ship, except by the name which she bore as a foreign ship immediately before becoming a British ship, unless

with the permission of the Board of Trade granted in manner directed by section six of the Merchant Shipping Act, 1871.

Any person who acts or suffers any person under his control to act in contravention of this section shall for each offence incur a penalty not exceeding one hundred pounds.

Restrictions on re-registration of abandoned ships.

6. WHERE a ship has ceased to be registered as a British ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a British ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854).

Agreements with seamen.

7. ANY agreement with a seaman made under section one hundred and forty-nine of the Merchant Shipping Act, 1854, may, instead of stating the nature and duration of the intended voyage or engagement as by that section required, state the maximum period of the voyage or engagement, and the places or parts of the world (if any) to which the voyage or engagement is not to extend.

Agreements with fishermen.

8. THE owner or master of any British vessel engaged in fishing off the coast of the United Kingdom may enter into an agreement with any person employed on such vessel that such person shall be remunerated wholly by a share in the profit of the fishing adventure.

Every such agreement shall be in writing or in print, or partly in writing and partly in print, and shall be signed by the contracting parties in the presence of a superintendent or deputy superintendent of a mercantile marine office.

The superintendent or deputy superintendent shall, before such agreement is signed, read and (if necessary) explain the same to the contracting parties, and shall attest the signature of the agreement, and certify that it has been read to and agreed to by the contracting parties.

Any such agreement, if made in the manner by this section required, shall be valid and binding on all the contracting parties, notwithstanding anything contained in section one hundred and eighty-two of the Merchant Shipping Act, 1854.

Compensation to seamen for unnecessary detention on charge of desertion.

9. IF a seaman or apprentice belonging to any ship is detained on a charge of desertion or any kindred offence, and if upon a survey of the ship being made under section seven of the Merchant Shipping Act, 1871, it is proved that she is not in a fit condition to proceed to sea, or that her accommodation

is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the court having cognizance of the proceedings may award.

Power for Board of Trade to establish mercantile marine offices and to hold examinations at certain ports.

10. In any case where the business of a mercantile marine office is conducted otherwise than under a local marine board, the Board of Trade may, if they think fit, instead of conducting such business at a custom house or otherwise, establish a mercantile marine office, and for that purpose procure the requisite buildings and property, and from time to time appoint and remove all the requisite superintendents, deputies, clerks, and servants. They may also in the like case make all such provisions and exercise all such powers with respect to the holding of examinations for the purpose of granting certificates of competency as masters, mates, or engineers, to persons desirous of obtaining the same, as might have been made or exercised by a local marine board.

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Power for Board of Trade to vary requirements as to boats.

15. In the case of any ship surveyed under the fourth part of the Merchant Shipping Act, 1854, the Board of Trade may at the request of the owner authorize the reduction of the number and the variation of the dimensions of the boats required for the ship by section two hundred and ninety-two of that Act, and also the substitution of rafts or other appliances for saving life for any such boats, so nevertheless that the boats so reduced or varied and the rafts or other appliances so substituted be sufficient for the persons carried on board the ship.

Section two hundred and ninety-three of the said Act shall extend to any such rafts or appliances in the same manner as if they were boats.

Duties of masters in case of collision.

16. In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision; and also to give to the master or person in charge of the other vessel the name of his own vessel, and of her port of registry, or of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound.

If he fails so to do, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a British vessel who fails, without reasonable cause, to render such assistance or give such information as aforesaid shall be deemed guilty of a misdemeanor, and if he is a certificated officer an

inquiry into his conduct may be held and his certificate may be cancelled or suspended.

Liability for infringement of regulations in cases of collision.

17. If in any case of collision it is proved to the court before which the case is tried that any of the regulations for preventing collision contained in or made under the Merchant Shipping Acts, 1854 to 1873, has been infringed, the ship by which such regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

Signals of distress.

18. The signals specified in the first schedule to this Act shall be deemed to be signals of distress.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals, except in the case of a vessel being in distress, shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress, and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

Signals for pilots.

19. If a vessel requires the services of a pilot, the signals to be used and displayed shall be those specified in the second schedule to this Act.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding twenty pounds.

Power to alter rule as to signals.

20. Her Majesty may from time to time by Order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto, or in substitution therefor, and any alterations in or additions to such rules made in manner aforesaid shall be of the same force as the rules in the said schedules.

Private signals.

21. Any shipowner who is desirous of using, for the purposes of a private code, any rockets, lights, or other similar signals, may register such signals with the Board of Trade, and the Board shall give public notice of the signals so registered in such manner as they may think requisite for preventing such signals from being mistaken for signals of distress or signals for pilots.

The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.

When any signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.

Notice to be given of apprehended loss of ship.

22. If the managing owner, or, in the event of there being no managing owner, the ship's husband of any British ship have reason, owing to the non-appearance of such ship, or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglect to do so within a reasonable time he shall incur a penalty not exceeding fifty pounds.

Restrictions on carriage of dangerous goods.

23. If any person sends or attempts to send by, or not being the master or owner of the vessel carries or attempts to carry in any vessel, British or foreign, any dangerous goods; (that is to say,) aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitroglycerine, petroleum, or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel, he shall for every such offence incur a penalty not exceeding one hundred pounds: Provided that if such person show that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed ten pounds.

Penalty for misdescription of dangerous goods.

24. If any person knowingly sends or attempts to send by, or carries or attempts to carry in any vessel, British or foreign, any dangerous goods or goods of a dangerous nature, under a false description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding five hundred pounds.

Power to refuse to carry goods suspected of being dangerous.

25. The master or owner of any vessel, British or foreign, may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact.

Power to throw overboard dangerous goods.

26. Where any dangerous goods as defined in this Act, or any goods which, in the judgment of the master or owner of the vessel, are of a dangerous nature, have been sent or brought aboard any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause such goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any court.

Forfeiture of dangerous goods improperly sent.

27. WHERE any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried, under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court having Admiralty jurisdiction to declare such goods, and any package or receptacle in which they are contained, to be and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

The court shall have and may exercise the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods have not committed any offence under the provisions of this Act relating to dangerous goods, and be not before the court, and have not notice of the proceedings, and notwithstanding that there be no evidence to show to whom the goods belong; nevertheless the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

Saving as to Dangerous Goods Acts.

28. THE provisions of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for or in restraint of any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorize that any person be sued or prosecuted twice in the same matter.

Miscellaneous and Repeal.

Her Majesty may, by Order in Council, declare certain foreign ports ports of registry.

29. WHERE, in accordance with the Foreign Jurisdiction Acts, Her Majesty exercises jurisdiction within any port out of Her Majesty's dominions, it shall be lawful for Her Majesty, by Order in Council, to declare such port a port of registry (in this Act referred to as a foreign port of registry), and by the same or any subsequent Order in Council to declare the description of persons who are to be the registrars of British ships at such foreign port of registry, and to make regulations with respect to the registry of British ships thereat.

Upon such order coming into operation it shall have effect as if it were enacted in the Merchant Shipping Acts, 1854 to 1873, and shall, subject to any exceptions and regulations contained in the order, apply in the same manner, as near as may be, as if the port mentioned in the order were an ordinary port of registry.

Fees in respect of surveys, &c.

30. THERE shall be paid in respect of the several measurements, inspections, and surveys mentioned in the third schedule hereto such fees, not exceeding those specified in that behalf in the said schedule, as the Board of Trade may from time to time determine.

Board of

31. IN any legal proceedings under the Merchant Shipping Acts, 1854 to

1873, the Board of Trade may take proceedings in the name of any of their officers. Trade may sue in name of its officers.

32. The following sections of this Act, that is to say, sections sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, shall not come into operation until the first day of November one thousand eight hundred and seventy-three. Certain sections not to come into force until 1st November 1873.

33. Section twenty-nine of the Merchant Shipping Act Amendment Act, 1862, and sections four and ten of the Merchant Shipping Act, 1871, are hereby repealed; and on and after the first day of November one thousand eight hundred and seventy-three, sections three hundred and twenty-seven and three hundred and twenty-nine of the Merchant Shipping Act, 1854, sections thirty-three and thirty-eight of the Merchant Shipping Act Amendment Act, 1862, and section nine of the Merchant Shipping Act, 1871, shall be repealed; but this repeal shall not affect— Repeal of certain sections of the Merchant Shipping Acts, 1862 and 1871; and of certain other sections of Merchant Shipping Acts, 1854, 1862, and 1871.

(1) anything duly done before this Act comes into operation;

(2) any right acquired or liability accrued before this Act comes into operation;

(3) any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation; or,

(4) the institution of any legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULES.

SCHEDULE I.

Signals of Distress.

In the daytime.—The following signals, numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress in the daytime:—

1. A gun fired at intervals of about a minute;
2. The international code signal of distress indicated by N C;
3. The distant signal, consisting of a square flag having either above or below it a ball, or anything resembling a ball.

At night.—The following signals, numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress at night:—

1. A gun fired at intervals of about a minute;
2. Flames on the ship (as from a burning tar barrel, oil barrel, &c.);
3. Rockets or shells, of any colour or description, fired one at a time, at short intervals.

SCHEDULE II.

Signals to be made by Ships wanting a Pilot.

In the daytime.—The following signals, numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot in the daytime, viz.:—

1. To be hoisted at the fore, the jack or other national colour usually worn by merchant ships, having round it a white border, one-fifth of the breadth of the flag; or
2. The international code pilotage signal indicated by P T.

At night.—The following signals, numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot at night, viz.:—

1. The pyrotechnic light commonly known as a blue light every fifteen minutes; or
2. A bright white light, flashed or shown at short or frequent intervals just above the bulwarks, for about a minute at a time.

SCHEDULE III.

Table of Maximum Fees to be paid for the Measurement, Survey, and Inspection of Merchant Ships.

1. For measurement of tonnage.

	£	s.	d.
For a ship under 50 tons register tonnage . .	1	0	0
„ from 50 to 100 tons „ . .	1	10	0

SCHEDULE III—*continued.*

	£	s.	d.
For a ship from 100 to 200 tons tonnage . .	2	0	0
„ „ 200 to 500 „ „ . .	3	0	0
„ „ 500 to 800 „ „ . .	4	0	0
„ „ 800 to 1,200 „ „ . .	5	0	0
„ „ 1,200 to 2,000 „ „ . .	6	0	0
„ „ 2,000 to 3,000 „ „ . .	7	0	0
„ „ 3,000 to 4,000 „ „ . .	8	0	0
„ „ 4,000 to 5,000 „ „ . .	9	0	0
„ „ 5,000 and upwards „ . .	10	0	0

2. For the inspection of the berthing or sleeping accommodation of the crew.

	£	s.	d.
For each visit to the ship	0	10	0

Provided as follows :—

1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.
2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

3. For the survey of emigrant ships.

	£	s.	d.
a. For an ordinary survey of the ship, and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores	10	0	0
b. For a special survey	15	0	0
c. In respect of the medical examination of passengers and crew, for every hundred persons or fraction of a hundred persons examined . .	1	0	0

4. For the inspection of lights and fog signals.

	£	s.	d.
For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective . .	0	10	0

Provided that the aggregate amount of fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.

36 & 37 VICTORIA. A. D. 1873.

CHAPTER LXXXVIII.

An Act for consolidating with Amendments the Acts for carrying into effect Treaties for the more effectual Suppression of the Slave Trade, and for other purposes connected with the Slave Trade.

[*5th August 1873.*]

WHEREAS divers treaties for the more effectual suppression of the slave trade have been made by or on behalf of Her Majesty and her Royal predecessors with foreign states, and the Acts mentioned in the second schedule to this Act have been passed for carrying into effect the said treaties or some of them:

And whereas it is expedient to consolidate the said Acts into one Act, and to make provision for carrying into effect the said treaties, and any treaty which may hereafter be made by or on behalf of Her Majesty with any foreign State for the more effectual suppression of the slave trade:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. THIS Act may be cited as the Slave Trade Act, 1873.

Interpretation.

2. IN this Act—

the term "the Treasury" means the commissioners of Her Majesty's Treasury:

the term "the Admiralty" means the Lord High Admiral of the United Kingdom, or the commissioners for executing the office of Lord High Admiral:

the term "vessel" means any vessel used in navigation:

the term "British possession" means any plantation, territory, settlement, or place situate within Her Majesty's dominions, and not forming part of the United Kingdom:

the term "governor" includes the officer for the time being administering the government of any colony; and where there is a local governor or lieutenant-governor under a governor general, means the local governor or lieutenant-governor:

the term "The Slave Trade Act, 1824," means the Act of the session of the fifth year of the reign of King George the Fourth, chapter one hundred and thirteen, intituled "An Act to amend and consolidate the laws relating to the abolition of the slave trade:"

the term "foreign state" includes any foreign nation, people, tribe, sovereign, prince, chief, or headman:

the term "vessel of a foreign state" means a vessel which is justly entitled to claim the protection of the flag of a foreign state, or which would be so entitled if she did not lose such protection by being engaged in the slave trade:

the term "treaty" includes any convention, agreement, engagement, or arrangement:

the term "slave trade" when used in relation to any particular treaty does not include anything declared by such treaty not to be comprised in the term or in such treaty:

the term "Vice-Admiralty Court" does not include any Vice-Admiralty Court which for the being has under its commission a limited jurisdiction only in matters relating to the slave trade:

the term "British slave court" means the High Court of Admiralty of England, every Vice-Admiralty Court in Her Majesty's dominions out of the United Kingdom, and every East African Court for the time being within the meaning of the Slave Trade (East African Courts) Act, 1873:

the term "slave court" means every British slave court, every mixed commission or court established under any existing slave trade treaty, and the court of any foreign state having jurisdiction to try and condemn a vessel engaged in the slave trade:

the term "existing slave trade treaty" means a treaty made by or on behalf of Her Majesty or her Royal predecessors with any foreign state for the more effectual suppression of the slave trade and in force at the passing of this Act.

Seizure of Slave Ships.

Visitation and seizure by cruisers, &c. of suspected slave ships.

3. WHERE a vessel is, on reasonable grounds, suspected of being engaged in or fitted out for the slave trade, it shall (subject, in the case either of the vessel of a foreign state, or of the commander or officer of a cruiser of a foreign state, to the limitations, restrictions, and regulations, if any, applicable thereto contained in any existing slave trade treaty made with such state) be lawful—

(*a*) if the vessel is a British vessel, or is engaged in the slave trade within British jurisdiction, or is not a vessel of a foreign state, for any commander or officer of any of Her Majesty's ships, for any officer bearing Her Majesty's commission in the army or navy, for any officer of Her Majesty's customs in the United Kingdom, Channel Islands, or Isle of Man, for the governor of a British possession, or any person

authorized by any such governor, and for any commander or officer of any cruiser of a foreign state authorized in pursuance of any existing slave trade treaty; and

(*b*) if the vessel is the vessel of a foreign state, for any commander or officer of any of her Majesty's ships, when duly authorized in that behalf, in pursuance of any treaty with that state, and for any commander or officer of any cruiser of that foreign state,

to visit and seize and detain such vessel, and to seize and detain any person found detained or reasonably suspected of having been detained as a slave, for the purpose of the slave trade, on board any such vessel,[a] and to carry away such vessel and person, together with the master and all persons, goods, and effects on board any such vessel, for the purpose of bringing in such vessel, person, goods, and effects for adjudication.

All vessels, slaves, persons, goods, and effects which may be forfeited under the enactments with which this Act is to be construed as one, as herein-after, mentioned, may be visited, seized, and detained by any commander, officer, governor, or person authorized by this section to seize a British vessel.

Vessels equipped for traffic in slaves to be deemed engaged in the slave trade.

4. WHERE any of the particulars mentioned in the first schedule to this Act are found in the equipment or on board of any vessel visited, seized or detained in pursuance of this Act, such vessel shall, unless the contrary be proved, be deemed to be fitted out for the purposes of and engaged in the slave trade, and in such case, even though the vessel is restored, no damages shall be awarded against the seizor under this Act in respect of such visitation, seizure, or detention, or otherwise upon such restoration.

Provided that this section shall not extend to the vessel of any foreign state except so far as may be consistent with the treaty made with such state.

Courts.

Jurisdiction of courts in regard to slave vessels, slaves, goods, and effects.

5. THE High Court of Admiralty of England and every Vice-Admiralty Court in Her Majesty's dominions out of the United Kingdom shall have jurisdiction to try and condemn or restore any vessel, slave, goods, and effects, alleged to be seized, detained, or forfeited, in pursuance of this Act, and on restoring the same to award such damages in respect of the visitation, seizure, and detention of such vessel, goods, and effects, and of any person on board such vessel, and in respect of any act or thing done in relation to such visitation, seizure, or detention, or in respect of any of such matters, and in any case

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[a] This does not justify a British officer in seizing slaves on board a British vessel within the waters of a foreign State, without the consent, by treaty or otherwise, of such State, even in cases where the vessel is engaged in, or fitted out for, the slave trade. Opinion of law-officers of the Crown and Dr. Deane, 15th January, 1881.

to make such order as to costs as, subject to the provisions of this Act and of any existing slave trade treaty, the court may think just.

Provided that nothing in this section shall give to any court any jurisdiction inconsistent with any existing slave trade treaty over a vessel which is shown to such court to be the vessel of any foreign state and which has not been engaged within British jurisdiction in the slave trade, but where any vessel of a foreign state is liable to be condemned by a British slave court, such court shall have the same jurisdiction as if she were a British vessel.

Each of the said courts shall have the same jurisdiction in regard to any person who has been seized, either at sea or on land, on the ground that he has or is suspected to have been detained as a slave, for the purpose of the slave trade, as the court would have under this section if he had been so detained on board a vessel that was seized and brought in for adjudication.

Proceedings upon seizure by a foreigner.

6. WHERE any vessel or slave seized by the commander or officer of the cruiser of any foreign state is brought in for adjudication in a British slave court, all proceedings for the condemnation of such vessel and slave, and the goods and effects on board such vessel, shall be taken in the name of Her Majesty by some person duly authorised in that behalf.

Mixed Courts.

Appointment of judges, arbitrators, secretary, &c. to mixed courts and commissions.

7. WHERE any existing slave trade treaty contains provisions for the time being in force for the appointment of any mixed court or commission for deciding cases under such treaty, it shall be lawful for Her Majesty from time to time to appoint such commissioners, judges, arbitrators, secretary, registrar, and other officers as are mentioned in such provisions.

There shall be paid to every commissioner, judge, arbitrator, secretary, registrar, and other officer so appointed, such salary as the Treasury may from time to time direct.

In case of the death, or sickness, or absence either on leave or from any other lawful impediment, of any such commissioner, judge, arbitrator, secretary, registrar, or other officer, whether British or not, the vacancy shall be temporarily filled in manner provided by the treaty.

Regulations as to powers of mixed courts.

8. THE regulations contained in any existing slave trade treaty for the time being in force, with respect to any mixed court or commission, shall have effect as if they were enacted in this Act, and such court or commission shall have all necessary jurisdiction for the purpose of carrying into effect any treaty referring to them, and in particular shall have jurisdiction to try, condemn, and restore British vessels seized in pursuance of such treaty on suspicion of being engaged in the slave trade, and shall, for the purpose of their jurisdiction, have the same power as any Vice-Admiralty Court in Her Majesty's

dominions has, and may accordingly take evidence, administer oaths, summon and enforce the attendance of witnesses, and require and enforce the production of documents in like manner as any such court.

Disposal of Vessels and Slaves.

Disposal of condemned vessels.

9. A VESSEL seized in pursuance of this Act, when condemned by a slave court, may be taken into Her Majesty's service upon payment of such sum as the Admiralty deem to be a proper price for the same (which sum is in this Act called the appraised value of such vessel), or, if not so taken, shall be broken up, and the materials thereof shall be publicly sold in separate parts.

Provided that nothing herein shall prejudice the right of the government of any foreign state, under any treaty, to require such vessel to be broken up, or to take such vessel into its service upon payment of a sum fixed in accordance with such treaty, and any sum paid by the government of a foreign state for a vessel taken into its service after condemnation by a slave court shall be deemed for the purposes of this Act to be the appraised value of the vessel.

Disposal of slaves.

10. WHERE any slaves are seized in pursuance of this Act, they shall, for the purpose only of seizure, prosecution, and condemnation, be deemed to be property, and shall be condemned as forfeited to the sole use of Her Majesty for the purpose only of divesting all other right or interest therein, and shall not be treated as slaves, but shall be provided for, pending the proceedings for their condemnation, in such manner, and shall on condemnation be disposed of in such manner, or delivered over to such persons, as the court having cognizance of the case may adjudge, subject to the regulations (if any) which are from time to time made by the Treasury; and the Treasury may from time to time make, alter, and revoke regulations for this purpose so that they be consistent with any provisions in this behalf contained in any existing slave trade treaty.

Bounties.

Bounty and other payments to seizors when British cruisers.

11. WHERE a vessel (whether British or not) or slave, goods or effects, seized in pursuance of this Act by any commander or officer of any of Her Majesty's ships have been condemned by a slave court, there shall be paid to the commander, officers, and crew of such ship the following sums:

(1) A slave bounty of five pounds for every slave so condemned who is delivered over, or, if the commander of the ship so elect, a tonnage bounty of four pounds for every ton of the tonnage of the vessel condemned:

(2) That part to which Her Majesty is entitled of the appraised value of the vessel condemned, or, if such vessel was broken up and the

materials thereof publicly sold in separate parts, of the net proceeds of such sale after deducting the charges of prosecution:

(3) Where the condemned vessel

(*a*) was brought into port and was broken up in pursuance of the order of the slave court, and the materials thereof publicly sold in separate parts; or

(*b*) was abandoned or destroyed prior to condemnation, and the slave court by the decree of condemnation declared that, after full consideration by the court of the circumstances of the case, the seizors had satisfied the court that such abandonment or destruction was inevitable, or otherwise under the circumstances proper and justifiable,

a further tonnage bounty at the rate of thirty shillings for every ton of the tonnage of the vessel; and

(4) The net proceeds to which Her Majesty is entitled (after deducting the charges of prosecution) of any such goods and effects which the slave court ordered to be sold.

Where any slave so condemned is not delivered over in consequence of death, sickness, or other inevitable circumstances, the Treasury may, if they think fit, pay to the seizors of such slave one moiety of the slave bounty which would have been due in respect of such slave if he had been delivered over.

Bounty and other payments where vessel, slave, or goods not seized by cruisers.

12. WHERE any vessel, slave, goods, or effects seized in pursuance of this Act otherwise than by the commander or officer of one of Her Majesty's ships, or of the cruiser of a foreign state, have been condemned by a slave court, there shall be paid the following sums:

(1) Two thirds of the appraised value of the vessel or (if the vessel was broken up and the materials thereof publicly sold in separate parts) of the net proceeds of such sale, and two thirds of the net proceeds of such goods and effects (after deducting from such appraised value or net proceeds the charges of prosecution) for the use of Her Majesty, to such persons as the Treasury may from time to time appoint, to be carried to the Consolidated Fund:

(2) The remaining third part of the said appraised value or net proceeds of the vessel and of the net proceeds of such goods and effects to the person who lawfully seized and prosecuted the ship, goods, and effects respectively to condemnation:

(3) For every slave so condemned who is delivered over, a slave bounty of five pounds to the person who prosecuted the same to condemnation.

Where any slave so condemned is not delivered over in consequence of death, sickness, or other inevitable circumstances, the Treasury may, if they

think fit, pay in respect of such slave one moiety of the slave bounty which would have been due in respect of such slave if he had been delivered over.

Payment of proceeds of vessels, &c. when seized by a foreign cruiser.

13. WHERE any vessel, goods, or effects have been seized in pursuance of this Act by the commander or officer of a cruiser of any foreign state, and been condemned by a British slave court, such portion of the appraised value of the vessel, or (if the vessel was broken up and the materials thereof publicly sold in separate parts) of the net proceeds of such sale, and of the net proceeds of the goods and effects, as is, under any Treaty with such state, payable to the seizors, shall be paid to such person as the Treasury may direct, to be disposed of in accordance with such treaty.

Regulations as to payment of bounty.

14. IN order to obtain payment of the bounty, there shall be produced to the Treasury the following evidence, or such other evidence as the Treasury may deem sufficient; namely,

(*a*) a copy, duly certified, of the decree of condemnation of the vessel or slave:

(*b*) if any tonnage bounty is claimed, a certificate from some person authorized for the time being to act as a registrar of British ships of the dimensions and tonnage of the vessel:

(*c*) if a slave bounty is claimed, a certificate from the person appointed to receive the slaves of the number of slaves condemned and delivered over.

For the purpose of bounty the tonnage of a vessel shall be calculated and ascertained in the like manner in which, for the time being, the tonnage of a vessel is calculated and ascertained for the purpose of registering the same as a British vessel, or, if the same cannot be satisfactorily ascertained in that manner, shall be ascertained in such manner as the Treasury may consider satisfactory.

Payment by Treasury of costs, damages, and expenses.

15. WHERE any visitation, seizure, detention, or prosecution purports to have been made or instituted in pursuance of this Act, the Treasury when required under any treaty shall, and in any other case may, if they think fit, pay the whole or any part of any costs, expenses, compensation, and damages which may have been awarded against the person making or instituting such visitation, seizure, detention, or prosecution, or any costs and expenses which may have been incurred in respect of the same, or on account of any person on board any vessel so visited, seized, or detained; but nothing in this section shall exempt the commander or officer of the ship or other person by whom the visitation, seizure, detention, or prosecution was made or instituted from his liability to make good any sum so paid when required by the Treasury so to do, and when any such commander or officer, or other person serving under

the Admiralty, or any person serving under any other department of the Government, is so required to make good any sum, that sum shall, if the Treasury so direct, be deducted by the Admiralty or other department of the Government, under whom such person is serving, from any payment to which such commander, officer, or person is entitled on account of salary, pay, prize, or bounty.

Payment and distribution of bounties and other sums.

16. THE bounties and all other sums payable by the Treasury in pursuance of this Act shall be paid out of moneys provided by Parliament for the purpose.

27 & 28 Vict. c. 24.

The provisions of "The Naval Agency and Distribution Act, 1864," shall apply to all money payable to the commanders, officers, and crews of Her Majesty's ships in pursuanee of this Act.

Miscellaneous.

Protection of persons authorized to seize.

17. ALL persons authorised to make seizures under this Act shall, in making and prosecuting any such seizure, have the benefit of all the protection granted to persons authorized to make seizures under any Act for the time being in force relating to Her Majesty's customs in the United Kingdom, in like manner as if the enactments granting such protection were herein enacted, and in terms made applicable thereto.

Pendency of suit or decree a bar to proceeding for recovery of vessel, damages, &c.

18. IN either of the following cases, namely,

(*a*) where any proceeding has been instituted in any slave court for the condemnation or restitution of any vessel, slave, goods, or effects purporting to have been seized in pursuance of this Act and is still pending; or

(*b*) where any vessel, slave, goods, or effects purporting to have been seized in pursuance of this Act, have been condemned or restored, or any other final judgment has been pronounced thereon by any slave court,

the pendency of such proceeding, or the condemnation or restitution, or other final judgment thereon, as the case may be, shall be a complete bar to every legal proceeding whatever for the recovery of such vessel, slave, goods, or effects, or of damages for any costs, expenses, loss, or injury sustained by any person by or in consequence of the visitation, seizure, or detention of such vessel, slave, goods, or effects, or of any person on board such vessel, or by or in consequence of any act or thing done in relation to such visitation, seizure, or detention, or in pursuance of this Act or any existing slave trade treaty, and may be pleaded in bar, or given in evidence under the general issue.

Power of

19. THE High Court of Admiralty of England shall have jurisdiction to

High Court of Admiralty of England as to bounties, reviewing and enforcing decrees, &c.

hear and determine any question arising with respect to the right of any person to any payment in pursuance of this Act in respect of any condemned vessel, slave, goods, or effects, and any question of joint capture or seizure which may arise in respect of any vessel, slave, goods, or effects seized in pursuance of this Act, and also as well to review as to enforce any decree, declaration, or order of any British slave court made in pursuance of this Act.

Review of taxation by registrar of Court of Admiralty.

20. THE registrar of the High Court of Admiralty of England may, on the application of any person aggrieved, or of the Treasury, tax or review the taxation of any costs, charges, or expenses incurred or alleged to be incurred in any proceeding taken in any British slave court, or in any mixed commission or court in Her Majesty's dominions, and shall for this purpose have the same jurisdiction and powers as he has in the taxation of any costs, charges, or expenses incurred in any proceeding in the High Court of Admiralty.

Appeal by Treasury.

21. THE Treasury may appeal from any decree, order, or declaration which is made by any British slave court in pursuance of this Act and involves the payment by the Treasury of any bounty, costs, expenses, compensation, damages, or other moneys in like manner as if they were parties to the proceeding in which such decree, order, or declaration was made.

Prosecution for false evidence.

22. ANY person who wilfully gives false evidence in any proceeding taken in pursuance of this Act in any slave court shall be guilty of an offence against this Act, and shall be liable to the like penalty as if he had been guilty of perjury, or in a British possession, of the offence, by whatever name called, which if committed in England would be perjury.

Returns by registrars.

23. THE registrar of every British slave court, and if appointed by Her Majesty, of every other slave court, shall from time to time make returns of the cases adjudged in such court in pursuance of this Act, at such times and in such form and containing such particulars as may be from time to time directed by any rule established with respect to such court under the Vice-Admiralty Courts Act, 1863, or if there is no such rule by Order in Council.

Slave Trade Act, 1824.

Incorporation with unrepealed portions of 5 Geo. 4. c. 113.

24. THIS Act shall be construed as one with the enactments of the Slave Trade Act, 1824, and any enactments amending the same, so far as they are in force at the time of the passing of this Act, and are not repealed by this Act; and the expression "this Act," when used in this Act, shall include those enactments.

Recovery of forfeitures under 5 Geo. 4. c. 113.

25. ALL pecuniary forfeitures and penalties imposed by the said enactments, with which this Act is to be construed as one, may be sued for, prosecuted, and recovered in any Court of Record or of Vice-Admiralty in any

part of Her Majesty's dominions wherein the offence was committed, or where the offender may be, in like manner as any penalty or forfeiture incurred in the United Kingdom under any Act for the time being in force relating to Her Majesty's Customs, or (in the case of the High Court of Admiralty or of a Court of Vice-Admiralty) in like manner as any vessel seized in pursuance of this Act.

Such pecuniary penalties and forfeitures shall, subject to the express provisions of the said enactments, be paid and applied in like manner as the net proceeds of a vessel seized otherwise than by the commander or officer of one of Her Majesty's ships, or of the cruiser of a foreign state.

Jurisdiction of court over offences under 5. Geo. 4. c. 113.

26. ANY offence against this Act or the said enactments with which this Act is to be construed as one, or otherwise in connexion with the slave trade, shall for all purposes of and incidental to the trial and punishment of a person guilty of such offence, and all proceedings and matters preliminary and incidental to and consequential on such trial and punishment, and for all purposes of and incidental to the jurisdiction of any court, constable, and officer with reference to such offence, be deemed to have been committed either in the place in which the offence was committed, or in the county of Middlesex, or in any place in which the person guilty of the offence may for the time being be, either in Her Majesty's dominions, or in any foreign port or place in which Her Majesty has jurisdiction; and the offence may be described in any indictment or other document relating thereto as having been committed at the place where it was wholly or partly committed, or as having been committed on the high seas or out of Her Majesty's dominions, and the venue or local description in the margin may be that of the place in which the trial is held.

Where any such offence is commenced at one place and completed at another, the place at which such offence is to be deemed to have been committed shall be either the place where the offence was commenced or the place where the offence was completed.

Where a person being in one place is accessory to or aids or abets in any such offence committed in another place, the place at which such offence is to be deemed to have been committed shall be either the place in which the offence was actually committed or the place where the offender was at the time of his being so accessory, aiding, or abetting.

Where it appears to any court or the judge of any court having jurisdiction to try any such offence that the removal of an offender charged with such offence to some other place in Her Majesty's dominions for trial would be conducive to the interests of justice, such court or judge may by warrant, or instrument in the nature of a warrant, direct such removal, and such offender

may be removed and tried accordingly; and section two hundred and sixty-eight of the Merchant Shipping Act, 1854, shall apply to the removal of an offender under this section in the same manner as if the term "consular officer" in that section included the court or judge making such warrant or instrument.

17 & 18 Vict. c. 104.

Extension of 33 & 34 Vict. c. 52. to slave trade offences.

27. OFFENCES committed against this Act or the enactments with which this Act is to be construed as one or otherwise in connexion with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the first schedule to the Extradition Act, 1870, and that Act, and any Act amending the same, shall be construed accordingly.

Application of Act.

Application of Act to cases already adjudicated.

28. THIS Act shall apply to all cases of vessels, slaves, goods, and effects seized and adjudicated upon by any slave court, whether before or after the passing of this Act.

Extension of Act to future treaties.

29. WHERE any treaty in relation to the slave trade is made after the passing of this Act, by or on behalf of Her Majesty, with any foreign state, Her Majesty may by Order in Council direct that as from such date, not being earlier than the date of the treaty, as may be specified in the order, such treaty shall be deemed, and thereupon (as from the said date, or if no date is specified as from the date of such order) such treaty shall be deemed to be an existing slave trade treaty within the meaning of this Act, and all the provisions of this Act shall apply and be construed accordingly.

Her Majesty may, by the same or any subsequent order referring to the same treaty, render the application of this Act subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the treaty so far as they relate to the slave trade, and shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the *London Gazette*.

A treaty, whether made before or after the passing of this Act, which ceases to be in force shall cease to be an existing slave trade treaty within the meaning of this Act.

Repeal.

Repeal of Acts in schedule.

30. THE Acts specified in the second schedule to this Act are hereby repealed.

Provided that—

(1) all bounties and other sums purporting to have been paid in pursuance of any enactment hereby repealed before the passing of this Act shall be deemed to have been duly paid:

(2) this repeal shall not affect—

(*a*) anything duly done or suffered under any enactment hereby repealed, or

(*b*) any right, privilege, obligation, liability, or forfeiture acquired, accrued, or incurred under any enactment hereby repealed; or

(*c*) any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, or forfeiture as aforesaid, or any legal proceeding taken or commenced under any enactment hereby repealed; and any such investigation, legal proceeding, and remedy may be carried on and all acts consequential thereon done as if it had been commenced under this Act.

FIRST SCHEDULE.

EQUIPMENTS WHICH ARE PRIMÂ FACIE EVIDENCE OF A VESSEL BEING ENGAGED IN THE SLAVE TRADE.

First.—Hatches with open gratings, instead of the close hatches which are usual in merchant vessels.

Secondly.—Divisions or bulkheads in the hold or on deck more numerous than are necessary for vessels engaged in lawful trade.

Thirdly.—Spare plank fitted for being laid down as a second or slave deck.

Fourthly.—Shackles, bolts, or handcuffs.

Fifthly.—A larger quantity of water in casks or in tanks than is requisite for the consumption of the crew of the vessel as a merchant vessel.

Sixthly.—An extraordinary number of water casks or of other vessels for holding liquid, unless the master shall produce a certificate from the custom house at the place from which he cleared outwards, stating that a sufficient security had been given by the owners of such vessel that such extra quantity of casks or of other vessels should only be used for the reception of palm oil, or for other purposes of lawful commerce.

Seventhly.—A greater quantity of mess tubs or kids than are requisite for the use of the crew of the vessel as a merchant vessel.

Eighthly.—A boiler or other cooking apparatus of an unusual size, and larger or fitted for being or capable of being made larger than requisite for the use of the crew of the vessel as a merchant vessel, or more than one boiler or other cooking apparatus of the ordinary size.

Ninthly.—An extraordinary quantity either of rice or of the flour of Brazil, manioc, or cassada, commonly called farinha, of maize or of Indian corn, or of any other article of food

whatever, beyond what might probably be requisite for the use of the crew, such rice, flour, maize, Indian corn, or other article of food not being entered on the manifest as part of the cargo for trade.

Tenthly.—A quantity of mats or matting larger than is necessary for the use of the crew of the vessel as a merchant vessel.

Eleventhly.—Any other equipment, article, or thing, which is declared by any existing slave trade treaty to be *primâ facie* evidence of a vessel being engaged in the slave trade.

SECOND SCHEDULE.

ACTS REPEALED.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as formiag the beginning or as forming the end of the portion comprised in the description or citation.

Portions of Acts which have already been specifically repealed are in some instances included in the repeal in this schedule, in order to preclude henceforth the necessity of looking back to previous Acts.

Date of Act.	Title.	Extent of repeal.
59 Geo. 3. c. 16. ...	An Act to carry into effect the treaty with the Netherlands relating to the slave trade.	The whole Act.
5 Geo. 4. c. 113. ...	An Act to amend and consolidate the laws relating to the abolition of the slave trade.	The whole Act, except sections two to eleven, section twelve, down to "taken to be in full force," sections thirty-nine, forty, and forty-seven.
7 & 8 Geo. 4. c. 54. ...	An Act to carry into effect the treaty with Sweden relative to the slave trade.	The whole Act.
7 & 8 Geo. 4. c. 74. ...	An Act to carry into execution a convention between His Majesty and the Emperor of Brazil for the regulation and final abolition of the African slave trade.	The whole Act.
11 Geo. 4 &. 1 Will. 4. c. 55.	An Act to reduce the rate of bounties payable upon the seizure of slaves.	The whole Act.
3 & 4 Will. 4. c. 72. ...	An Act for carrying into effect two conventions with the King of the French for suppressing the slave trade.	The whole Act.

Date of Act.	Title.	Extent of repeal.
5 & 6 Will. 4. c. 60. ...	An Act for carrying into effect a treaty with the King of the French and the King of Sardinia for suppressing the slave trade.	The whole Act.
5 & 6 Will. 4. c. 61. ...	An Act for carrying into effect the treaty with the King of the French and the King of Denmark for suppressing the slave trade.	The whole Act.
6 & 7 Will. 4. c. 6. ...	An Act for carrying into effect a treaty made between His Majesty and the Queen Regent of Spain for the abolition of the slave trade.	The whole Act.
6 & 7 Will. 4. c. 81. ...	An Act to authorize His Majesty, until six months after the commencement of the next session of Parliament, to carry into immediate execution, by Orders in Council, any treaties, conventions, or stipulations made with any foreign power or state for the suppression of the slave trade.	The whole Act.
7 Will. 4. & 1 Vict. c. 62.	An Act to authorize Her Majesty, until six months after the commencement of the next session of Parliament, to carry into immediate execution, by Orders in Council, any treaties, conventions, or stipulations made with any foreign power or state for the suppression of the slave trade.	The whole Act.
1 & 2 Vict. c. 39. ...	An Act for carrying into effect a convention of accession of the Hans Towns to two conventions with the King of the French for suppressing the slave trade.	The whole Act.
1 & 2 Vict. c. 40. ...	An Act to carry into effect an additional article to a treaty with Sweden relative to the slave trade.	The whole Act
1 & 2 Vict. c. 41. ...	An Act for carrying into effect an additional article to a treaty with the Netherlands relating to the slave trade.	The whole Act
1 & 2 Vict. c. 47. ...	An Act for the better and more effectually carrying into effect the treaties and conventions made with foreign powers for suppressing the slave trade.	The whole Act
1 & 2 Vict. c. 83. ...	An Act for carrying into effect a convention of accession of the Duke of Tuscany to two conventions with the King of the French for suppressing the slave trade.	The whole Act
1 & 2 Vict. c. 84. ...	An Act for carrying into effect a convention of accession of the King of the Two Sicilies to two conventions with the King of the French for suppressing the slave trade.	The whole Act

Date of Act.	Title.	Extent of repeal.
1 & 2 Vict. c. 102. ...	An Act to revive and continue, until six months after the commencement of the next session of Parliament, and to amend, an Act for authorizing Her Majesty to carry into immediate execution, by Orders in Council, any treaties made for the suppression of the slave trade.	The whole Act.
2 & 3 Vict. c. 73. ...	An Act for the suppression of the slave trade.	The whole Act.
3 & 4 Vict. c. 64. ...	An Act to continue until eight months after the commencement of the next session of Parliament an Act for authorizing Her Majesty to carry into immediate execution, by Orders in Council, any treaties for the suppression of the slave trade.	The whole Act.
3 & 4 Vict. c. 67. ...	An Act for carrying into effect the treaty between Her Majesty and the Republic of Venezuela for the suppression of the slave trade.	The whole Act.
5 & 6 Vict. c. 40. ...	An Act for carrying into effect the treaty between Her Majesty and the Argentine Confederation for the abolition of the slave trade.	The whole Act.
5 & 6 Vict. c. 41. ...	An Act for carrying into effect a convention between Her Majesty and the Republic of Hayti for the more effectual suppression of the slave trade.	The whole Act.
5 & 6 Vict. c. 42. ...	An Act for better and more effectually carrying into effect treaties and conventions with foreign states for suppressing the slave trade.	The whole Act.
5 & 6 Vict. c. 59. ...	An Act to continue until the first day of August one thousand eight hundred and forty-three an Act for authorizing Her Majesty to carry into immediate execution, by Orders in Council, any treaties for the suppression of the slave trade.	The whole Act.
5 & 6 Vict. c. 91. ...	An Act to amend an Act of the second and third years of Her Majesty for the suppression of the slave trade.	The whole Act.
5 & 6 Vict. c. 101. ...	An Act for extending to the governors and officers of the East India Company the powers given by an Act of the fifth year of King George the Fourth to Her Majesty's governors and officers for the more effectual suppression of the importation of slaves into India by sea.	The whole Act.
5 & 6 Vict. c. 114. ...	An Act to repeal so much of an Act of the second and third years of Her present Majesty for the suppression of the slave trade as relates to Portuguese vessels.	The whole Act.

Date of Act.	Title.	Extent of repeal.
6 & 7 Vict. c. 14. ...	An Act for carrying into effect a treaty between Her Majesty and the Republic of Bolivia for the abolition of the slave trade.	The whole Act.
6 & 7 Vict. c. 15. ...	An Act for carrying into effect the treaty between Her Majesty and the Republic of Texas for the suppression of the African slave trade.	The whole Act.
6 & 7 Vict. c. 16. ...	An Act for carrying into effect the treaty between Her Majesty and the Oriental Republic of the Uruguay for the abolition of the slave trade.	The whole Act.
6 & 7 Vict. c. 46. ...	An Act to continue until the first day of August one thousand eight hundred and forty-four, and to the end of the then session of Parliament, an Act for authorizing Her Majesty to carry into immediate execution, by Orders in Council, any treaties for the suppression of the slave trade.	The whole Act.
6 & 7 Vict. c. 50. ...	An Act for carrying into execution a treaty signed at London for the suppression of the slave trade, so far as the same relates to Great Britain, Austria, Prussia, and Russia.	The whole Act.
6 & 7 Vict. c. 51. ...	An Act for carrying into effect the treaty between Her Majesty and the Mexican Republic for the abolition of the traffic in slaves.	The whole Act.
6 & 7 Vict. c. 52. ...	An Act for carrying into effect the treaty between Her Majesty and the Republic of Chile for the abolition of the traffic in slaves.	The whole Act.
6 & 7 Vict. c. 53. ...	An Act for carrying into effect the treaty between Her Majesty and the Queen of Portugal for the suppression of the traffic in slaves.	The whole Act.
6 & 7 Vict. c. 98. ...	An Act for the more effectual suppression of the slave trade.	Section three.
7 & 8 Vict. c. 26. ...	An Act for authorizing Her Majesty to carry into immediate execution, by Orders in Council, any treaties for the suppression of the slave trade.	The whole Act.
11 & 12 Vict. c. 116.	An Act for carrying into effect the treaty between Her Majesty and the Republic of the Equator for the abolition of the traffic in slaves.	The whole Act.
11 & 12 Vict. c. 128.	An Act for carrying into effect the agreement between Her Majesty and the Imaum of Muscat for the more effectual suppression of the slave trade.	The whole Act.

Date of Act.	Title.	Extent of repeal.
12 & 13 Vict. c. 84. ...	An Act for carrying into effect engagements between Her Majesty and certain Arabian chiefs in the Persian Gulf for the more effectual suppression of the slave trade.	The whole Act.
16 & 17 Vict. c. 16. ...	An Act for carrying into effect the engagement between Her Majesty and Syed Syfbin Hamood, the chief of Sohar, in Arabia, for the more effectual suppression of the slave trade.	The whole Act.
16 & 17 Vict. c. 17. ...	An Act for carrying into effect the treaty between Her Majesty and the Republic of New Granada for the suppression of the slave trade.	The whole Act.
16 & 17 Vict. c. 107.	The Customs Consolidation Act, 1853 ...	Section one hundred and eighty-nine.
18 & 19 Vict. c. 85. ...	An Act for carrying into effect the engagements between Her Majesty and certain chiefs of the Sherbro country, near Sierra Leone in Africa, for the more effectual suppression of the slave trade.	The whole Act.
25 & 26 Vict. c. 40. ...	African Slave Trade Treaty Act (No. 1), 1862 ...	The whole Act.
25 & 26 Vict. c. 90. ...	African Slave Trade Treaty Act (No. 2), 1862 ...	The whole Act.
26 & 27 Vict. c. 34. ...	African Slave Trade Treaty Act, 1863 ...	The whole Act.
32 & 33 Vict. c. 2. ...	The Brazilian Slavé Trade Repeal Act, 1869 ...	The whole Act.

37 VICTORIA. A. D. 1874.

CHAPTER III.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*30th March 1874.*]

WHEREAS the exigencies of the public service in India require that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to the

1. IT shall be lawful for the Secretary of State in Council of India, at any

time or times before the thirtieth day of April one thousand eight hundred and seventy-nine, or, if Parliament be then sitting, before the end of the then session of Parliament, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole ten millions of pounds sterling, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Secretary of State in Council of India to raise any sum not exceeding 10,000,000*l.*

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Bonds may be issued under the hands of two members of the Council, and countersigned by Secretary of State.

3. ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

Debentures may be issued.

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England.

As to payment of principal and interest on debentures.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures; and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery.

Debentures transferable by delivery.

Coupons by delivery.

6. ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Capital stock and annuities may be created and issued.

Transfer books of such capital stock and annuities to be kept.

7. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities deemed personal estate.

8. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise.

The whole amount charged on revenues of India not to exceed 10,000,000*l.*

9. The whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed ten millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of April one thousand eight hundred and seventy-nine, or, if Parliament be then sitting, after the end of the then session of Parliament, save for or upon the repayment of principal moneys previously secured under this Act as herein-after provided.

Power to raise money for payment of principal money.

10. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

Securities, &c. to be charged on revenues of India.

11. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.

12. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

13. ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be prepared half-yearly of moneys raised on loan, and presented to Parliament.

14. PROVIDED always, that, at the end of each of the half-years ending on the thirty-first day of March and the thirtieth day of September in every year, the Secretary of State in Council shall prepare or cause to be prepared a return of all loans raised in England under the provisions of this Act or of any other Acts, chargeable on the revenues of India, outstanding at the commencement of each half-year, with the rates of interest payable thereon, and the date of the termination of each loan, the debt incurred during the half-year, the moneys raised thereby during the half-year, the loans paid off or discharged during the half-year, and the loans outstanding at the close of the half-year, stating, so far as the public convenience will allow, the purpose or service for which moneys have been raised during the half-year; and that a similar return shall also be prepared of all loans raised in India; that such returns shall be presented to both Houses of Parliament within fifteen days after the expiration of the said half-yearly periods as regards the loans raised in England, and within three months as regards the loans raised in India, if Parliament be then sitting, or if not sitting, then within one week after Parliament shall be next assembled.

Accounts of all loans and liabilities to be included in account annually laid before Parliament.

15. THE Secretary of State in Council shall include in the account to be laid before both Houses of Parliament, pursuant to the fifty-third section of the Act of the twenty-first and twenty-second Victoria, chapter one hundred and six, within the first fourteen days during which Parliament may be sitting next after the first day of May in every year, accounts of all stocks, loans, debts, and liabilities chargeable on the revenues of India, at home and abroad, at the commencement and close of the year to which such account shall relate, the loans, debts, and liabilities raised or incurred within that year and the amounts paid off or discharged during that year; and the provisions of the

Acts of the twenty-first Victoria, chapter three, twenty-second Victoria, chapter eleven, twenty-second and twenty-third Victoria, chapter thirty-nine, twenty-third and twenty-fourth Victoria, chapter one hundred and thirty, twenty-fourth and twenty-fifth Victoria, chapters twenty-five and one hundred and eighteen, thirty-second and thirty-third Victoria, chapter one hundred and six, and thirty-sixth Victoria, chapter thirty-two, so far as regards the preparation and presentation to Parliament annually of a return of all moneys raised on loan under the provisions of those Acts, and a return of all stocks, loans, debts, and liabilities chargeable on the revenues of India, at home and abroad, are hereby repealed.

Saving powers of the Secretary of State in Council.

16. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

Stock created hereunder to be deemed East India stock.

17. ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide; and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding.

Sect. 3., &c. of 33 & 34 Vict. c. 93. extended to capital stock created under this Act.

18. THE provisions contained in the third section of the Act of the thirty-third and thirty-fourth Victoria, chapter ninety-three, and all other enactments in the said Act relating to or affecting such provisions, shall be extended and be applicable to any capital stock created under this Act, or any previous Acts, and chargeable upon the revenues of India.

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37 VICTORIA. A. D. 1874.

CHAPTER XII.

An Act to make provision for the transfer of the Assets and Liabilities of the Bengal and Madras Civil Service Annuity Funds, and the Annuity Branch of the Bombay Civil Fund, to the Secretary of State for India in Council.

[*8th June 1874.*]

WHEREAS an institution, known as the Bengal Civil Service Annuity Fund, was established in India, under the authority given by the Court of Directors of the East India Company in a public despatch to the Governor General in Council at Fort William in Bengal, dated the eighth of December one thousand eight hundred and twenty-four, for the grant of annuities to the civil servants of the said Company, on their retiring from the service, who should become

subscribers to the said institution; and whereas another institution, known as the Madras Civil Service Annuity Fund, founded on certain annuity funds of earlier dates, was established in Madras, under the authority given by the said Court of Directors in a public despatch to the Governor in Council at Fort St. George, dated the thirty-first of December one thousand eight hundred and twenty-four, for the grant of similar annuities; and whereas another institution, known as the Annuity Branch of the Bombay Civil Fund, founded on an annuity fund of earlier date, was established in Bombay, under the authority given by the said Court of Directors in a public despatch to the Governor in Council at Bombay, dated the thirty-first of December one thousand eight hundred and twenty-four, the said Annuity Branch having a separate capital for the grant of annuities like the Bengal and Madras Annuity Funds; and the said Civil Annuity Funds were supported by the subscriptions of the civil servants of the said Company and by certain contributions from the said Company:

And whereas, in a financial despatch to the Government of India, dated the tenth of February one thousand eight hundred and seventy-one, certain changes respecting the grant of annuities were authorized by the Secretary of State for India in Council, which, taken in connexion with other changes which had been previously made also under the authority of the said Secretary of State for India in Council, rendered the continuance of the machinery of the Bengal, Madras, and Bombay Civil Annuity Funds unnecessary:

And whereas, in accordance with the instructions contained in the aforesaid despatch, the Government of India caused the inquiry to be made whether, upon the terms respecting the grant of annuities offered by the Secretary of State in the said despatch, the subscribers to the said Civil Annuity Funds were willing to surrender the accumulated annuity capital of the said funds to the Secretary of State for India in Council; and the proposition so to make over the accumulated annuity capital on the terms offered by the Secretary of State was carried in the affirmative by the subscribers to the Bengal, Madras, and Bombay Civil Annuity Funds by a large majority of votes:

And whereas, in order to avoid any doubt that may arise in regard to the legality of such transfer, it is necessary to make provision by law for enabling the trustees of the said Civil Annuity Funds to transfer the assets and liabilities thereof, including the assets and liabilities herein-after referred to, to the Secretary of State for India in Council, and for enabling the Secretary of State for India in Council to accept the same:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons,

in this present Parliament assembled, and by the authority of the same, as follows:

Assets and liabilities of Bengal, Madras, and Bombay Civil Funds to be transferred to Secretary of State.

1. It shall be lawful for the trustees of the Bengal Civil Service Annuity Fund, and of the Madras Civil Service Annuity Fund, and of the Annuity Branch of the Bombay Civil Fund to transfer to the Secretary of State for India in Council the assets and liabilities of the Bengal, Madras, and Bombay Civil Annuity Funds, including any assets and liabilities to which the trustees of the Madras and Bombay Civil Annuity Funds may have succeeded as representing the trustees of the earlier funds at Madras and Bombay, and for the Secretary of State for India in Council to accept the same.[a]

Annuities charged on said funds to be payable from revenues of India.

2. As soon as the assets and liabilities of the said Civil Annuity Funds, including as aforesaid, shall be transferred to the Secretary of State for India in Council, and the acceptance thereof by the Secretary of State for India in Council notified by the Government of India, all existing liabilities of the said funds shall be deemed to be liabilities of the revenues of India, and all such liabilities may be enforced against the Secretary of State for India in Council in like manner as they might have been enforced against the trustees of the said Funds if this Act had not been passed, and every civil servant who shall at the date of such notification be an incumbent of an annuity from any of the said Civil Annuity Funds, or from any earlier fund the assets and liabilities of which shall have been transferred as aforesaid, shall be entitled to receive from time to time the amount of such annuity from the revenues of India; and every covenanted civil servant who shall be a subscriber to any of the said Civil Annuity Funds at or after the date of such notification shall be entitled on retirement to the benefits granted by the despatch of the Secretary of State in Council to the Government of India, dated the tenth of February one thousand eight hundred and seventy-one; namely,

If he shall have completed twenty-five years service and twenty-one years residence in India a full annuity of one thousand pounds payable in England, or Company's rupees ten thousand six hundred and sixty-six ten annas and eight pies payable in Bengal, or Company's rupees ten thousand six hundred and fifty payable in Madras or Bombay:

And if he shall be compelled to resign the service on account of ill health, clearly proved by medical certificate,

if under five years service, a grant of five hundred pounds;

if of five years service and under six, an invalid annuity of one hundred and fifty pounds;

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[a] As to the Madras Civil Fund, see *Gazette of India*, 18th December, 1875, p. 647: as to the Bengal Civil Service Annuity Fund, *ibid.* 13th May, 1876, p. 255.

if of six years service and under seven, an invalid annuity of one hundred and seventy pounds;

and so on, an increase of twenty pounds being made to the annuity for each year's service, the highest invalid annuity being four hundred and fifty pounds for a service of twenty years.

Nothing to prejudice subscribers' claims.

3. PROVIDED, that nothing in this Act contained shall prejudice any claim which may be made by any subscriber to the said Civil Service Annuity Funds, or by the representatives of any such subscriber, upon the funds so transferred; and in case any question shall arise between any such subscriber or the representatives of any deceased subscriber on the one hand, and the Secretary of State for India in Council on the other, as to any liability or alleged liability of the said funds, such question shall be determined by the Court of Appeal appointed by the Judicature Act, 1873, in such manner as may be provided by any general orders, or as the said Court may, on special application, think fit to prescribe, anything in the Statute of Limitations to the contrary notwithstanding.

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37 VICTORIA. A. D. 1874.

CHAPTER XIII.

An Act to extend to the present Bishop of Calcutta the Regulations made by Her Majesty as to the Leave of Absence of Indian Bishops.

[*8th June 1874.*]

34 & 35 Vict. c. 62.

WHEREAS by an Act passed in the thirty-fourth and thirty-fifth years of the reign of Her Majesty, chapter sixty-two, it was provided that it should be lawful for Her Majesty to make such rules as to the leave of absence of Indian bishops on furlough or medical certificate as might seem to her expedient: And whereas it was further provided that the provisions of existing Acts of Parliament should not be interfered with by such rules so far as regarded the present Bishop of Calcutta: And whereas the present Bishop of Calcutta has intimated his desire to be brought under such rules:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Rules as to leave of absence applied to present Bishop of Calcutta.

1. THE rules made by Her Majesty as to the leave of absence of Indian bishops on furlough or medical certificate under the power given to her by section one of the said Act shall apply to the present Bishop of Calcutta.

37 & 38 VICTORIA. A. D. 1874.

CHAPTER XXVII.

An Act to regulate the Sentences imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts. [*30th June 1874.*]

WHEREAS by certain Acts of Parliament jurisdiction is conferred on courts in Her Majesty's colonies to try persons charged with certain crimes or offences, and doubts have arisen as to the proper sentences to be imposed upon conviction of such persons; and it is expedient to remove such doubts:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as The Courts (Colonial) Jurisdiction Act, 1874.

Definition of term "colony."

2. FOR the purposes of this Act,—

the term "colony" shall not include any places within the United Kingdom, the Isle of Man, or the Channel Islands, but shall include such territories as may for the time being be vested in Her Majesty by virtue of an Act of Parliament for the government of India, and any plantation, territory, or settlement situate elsewhere within Her Majesty's dominions, and subject to the same local government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government.

At trials in any colonial courts by virtue of Imperial Acts, courts empowered to pass sentences as if crimes had been committed in the colony.

3. WHEN, by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a court of any colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such colony and of the local jurisdiction of such court, or if committed within such local jurisdiction made punishable by that Act, such person shall, upon conviction, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no other, anything in any Act to the contrary notwithstanding: Provided always, that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in England.

37 & 38 VICTORIA. A. D. 1874.

Chapter XLI.

An Act to amend "The Colonial Attornies Relief Act."

[*30th July 1874.*]

WHEREAS by the Colonial Attornies Relief Act certain provisions are made for regulating the admission of attornies and solicitors of Colonial Courts in Her Majesty's Superior Courts of Law and Equity in England in certain cases, and it is considered just and equitable to amend the said Act: 20 & 21 Vict. c. 39.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Examination and ceasing to practice dispensed with where colonial attorney and solicitor has actually practised for seven years, and passed examination previous to admission.

1. So much of the Colonial Attornies Relief Act as enacts that no person shall be deemed qualified to be admitted as attorney or solicitor under the provisions of the said Act unless he shall pass an examination to test his fitness and capacity, and shall further make affidavit that he has ceased for the space of twelve calendar months at the least to practise as attorney or solicitor in any colonial court of law, and also so much of the said Act and of any orders and regulations made thereunder as relate to such examination, shall not apply to, nor shall compliance therewith respectively be required of, any person seeking to be admitted as attorney or solicitor under the provisions of the said Act who shall have been in actual practice for the period of seven years at the least as attorney and solicitor in any colony or dependency as to which an Order in Council has been or may be made as mentioned in the said Act, and who shall have served under articles and passed an examination previously to his admission as attorney and solicitor in any such colony or dependency.

Short title.

2. THE expression "The Colonial Attornies Relief Act" shall henceforth be deemed to include this Act.

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37 & 38 VICTORIA. A. D. 1874.

Chapter LXI.

An Act for granting Compensation to Officers of the Royal (late Indian) Ordnance Corps. [*7th August 1874.*]

WHEREAS it is expedient to grant compensation, in manner herein-after mentioned, to officers of the Royal (late Indian) Ordnance Corps:

Be it therefore enacted by the Queen's most excellent Majesty, by and

with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as "The Royal (late Indian) Ordnance Corps Act, 1874."

Compensation to officers of the Royal (late Indian) Ordnance Corps.

2. SUBJECT as herein-after mentioned, the army purchase commissioners, acting under the Regulation of the Forces Act, 1871, in this Act referred to as the commissioners, shall have power to consider the claims on retirement of any officers, who on the first day of November one thousand eight hundred and seventy-one were serving in any one of the corps following; that is to say,

The Royal (late Bengal) Artillery,
The Royal (late Bengal) Engineers,
The Royal (late Madras) Artillery,
The Royal (late Madras) Engineers,
The Royal (late Bombay) Artillery, or
The Royal (late Bombay) Engineers;

and to grant to any of the said officers who have retired since the said first day of November, or who may hereafter be permitted to retire, a compensation equal to the sums they would have received according to the custom, if any, of their corps, as or in the nature of a bonus for such retirement had they retired from their regiment on the said day, after deducting such sums (if any) as they may have received from the Indian revenues in respect or on account of such bonus.

Condition precedent to payment of compensation.

3. COMPENSATION shall not be granted in pursuance of this Act to any officer of any of the said corps until arrangements have been made to the satisfaction of the commissioners, and in such manner as they may direct, for payment or securing payment into the receipt of the exchequer, for the use of the public, by or on account of the corps to which such officer belongs, of any available sums, securities, or obligations constituting or standing to the account of any sinking fund or other fund, by whatever name known, formed after the amalgamation of the Indian with the British army, for the purpose of securing to every existing officer of such corps a bonus on retirement.

Any trustees or other persons having in their possession or under their control any such sinking or other fund as is in this section mentioned, or any sums, securities, or obligations constituting the same, are hereby empowered (but are not required unless they think it expedient so to do) to pay the same into the Exchequer for the use of the public; and they shall not be restrained from so doing by any court of law or equity whatsoever.

Adjustment of accounts.

4. ANY such trustees or other persons as aforesaid, before paying into the Exchequer such fund as aforesaid belonging to any corps, may, with the assent

of the commissioners, repay to officers in such corps any sums paid by them to retiring officers for the purpose of making good to such last-mentioned officers any deficiencies in the customary amounts receivable by them in respect of bonus on retirement; and the commissioners, in estimating the amount of compensation payable to any officer of any corps under this Act may take into account, as against such officer, the amount of any bonus which such officer may have failed to pay to any retiring officer of his corps in respect of the customary amount receivable by such last-mentioned officer in respect of bonus on retirement.

Certificate of commissioners to be indemnity to trustees and others.

5. THE commissioners shall grant a certificate to any trustees or other persons dealing in manner authorized by this Act with any fund belonging to any of the said corps, and such certificate shall indemnify any person dealing with such fund against all actions and legal proceedings whatsoever which might have been brought against him in respect of such dealings, and against all claims whatsoever of persons interested in the fund so dealt with; and such fund shall be discharged from all claims of the persons so interested therein.

Powers of commissioners applicable for purposes of this Act.

6. ALL powers vested in the commissioners by the said Regulation of the Forces Act, 1871, for or in relation to their proceedings under that Act, shall apply to their proceedings under this Act, and may be exercised by them for ascertaining any matter or fact, or doing any act required to be ascertained or done by them for the purposes of this Act, in the same manner in all respects as if their proceedings under this Act were proceedings under the said Regulation of the Forces Act, 1871.

Provision for expenses of compensating officers.

7. ALL expenses incurred by the commissioners in carrying into effect this Act shall be defrayed out of moneys provided by Parliament.

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37 & 38 VICTORIA. A. D. 1874.

CHAPTER LXXVII.

An Act respecting Colonial and certain other Clergy.

[*7th August 1874.*]

WHEREAS by divers Acts of Parliament certain disabilities are imposed on persons ordained by bishops not being bishops of the United Church of England and Ireland:

And whereas by an Act passed in the thirty-second and thirty-third years of Her present Majesty, chapter forty-two, it is enacted that the union created by Act of Parliament between the churches of England and Ireland shall be dissolved, and that enactments relating to the said United Church shall be read distributively in respect of the Church of England and the Church of Ireland:

And whereas it is desirable to amend the law respecting persons having been ordained by bishops, not being bishops of either of the said separate churches or of the said United Church, herein-after collectively called "the churches aforesaid:"

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the Colonial Clergy Act, 1874.

Repeal of enactments in schedule A.

2. THE enactments enumerated in Schedule A. annexed to this Act are repealed, but not so as to render invalid anything lawfully done in conformity with any of them.

Colonial and certain other clergy not to officiate without permission from the archbishop;

3. EXCEPT as herein-after mentioned, no person who has been or shall be ordained priest or deacon, as the case may be, by any bishop other than a bishop of a diocese in one of the churches aforesaid shall, unless he shall hold or have previously held preferment or a curacy in England, officiate as such priest or deacon in any church or chapel in England, without written permission from the archbishop of the province in which he proposes to officiate, and without also making and subscribing so much of the declaration contained in "The Clerical Subscription Act, 1865," as follows; (that is to say,)

"I assent to the thirty-nine articles of religion, and to the Book of Common Prayer, and of the ordering of bishops, priests, and deacons. I believe the doctrine of the Church of England as therein set forth to be agreeable to the Word of God; and in public prayer and administration of the sacraments, I whilst ministering in England, will use the form in the said book prescribed, and none other, except so far as shall be ordered by lawful authority."

nor to hold preferment nor act as curates without consent of bishop.

4. EXCEPT as herein-after mentioned, no person who has been or shall be ordained priest or deacon, as the case may be, by any bishop other than a bishop of a diocese in one of the churches aforesaid, shall be entitled as such priest or deacon to be admitted or instituted to any benefice or other ecclesiastical preferment in England, or to act as curate therein, without the previous consent in writing of the bishop of the diocese in which such preferment or curacy may be situate.

As to license.

5. ANY person holding ecclesiastical preferment, or acting as curate in any diocese in England under the provisions of this Act, may, with the written consent of the bishop of such diocese, request the archbishop of the province to give him a license in writing under his hand and seal in the following form; that is to say,

"To the Rev. *A. B.*,

"We, *C.*, by Divine Providence archbishop of *D.*, do hereby give you the

said *A. B.* authority to exercise your office of priest (*or* deacon) according to the provisions of an Act of the thirty-seventh and thirty-eighth years of Her present Majesty, intituled 'An Act respecting Colonial and certain other Clergy.'

"Given under our hand and seal on the day of

"*C.* (L.S.) *D.*"

And if the archbishop shall think fit to issue such license, the same shall be registered in the registry of the province, and the person receiving the license shall thenceforth possess all such rights and advantages, and be subject to all such duties and liabilities as he would have possessed and been subject to if he had been ordained by the bishop of a diocese in England: Provided that no such license shall be issued to any person who has not held ecclesiastical preferment or acted as curate for a period or periods exceeding in the aggregate two years.

Appointments, &c. contrary to Act void.

6. ALL appointments, admissions, institutions, or inductions to ecclesiastical preferment in England, and all appointments to act as curate therein, which shall hereafter be made contrary to the provisions of this Act, shall be null and void.

Penalty for officiating contrary to Act.

7. IF any person shall officiate as priest or deacon in any church or chapel in England contrary to the provisions of this Act, or if any bishop not being bishop of a diocese in England shall perform episcopal functions in any such church or chapel without the consent in writing of the bishop of the diocese in which such church or chapel is situate, he shall for every such offence forfeit and pay the sum of ten pounds to the Governors of Queen Anne's Bounty, to be recovered by action brought within six months after the commission of such offence by the treasurer of the said Bounty in one of Her Majesty's Superior Courts of Common Law; and the incumbent or curate of any church or chapel who shall knowingly allow such offence to be committed therein shall be subject to a like penalty, to be recovered in the same manner.

Persons ordained under 15 & 16 Vict. c. 52. exempt.

8. ANY person ordained a priest or deacon in pursuance of such request and commission as are mentioned in an Act of the fifteenth and sixteenth years of Her present Majesty, chapter fifty-two, shall, for the purposes of this Act, be deemed to have been so ordained by the bishop of a diocese in England, and it shall not be necessary that the bishop to whom such commission shall have been given should have exercised his office within Her Majesty's dominions, or by virtue of Her Majesty's Royal Letters Patent, provided that such bishop be a bishop in communion with the Church of England; and such commission shall not become void by the death of the grantor until after seven days; Provided always, that any such act of ordination by any such

bishop as aforesaid shall be subject to the same laws and provisions as to the titles and as to the oaths and subscriptions of the persons to be ordained, and as to the registration of such act, as if it had been performed by the bishop of the diocese; and that the letters of orders of any persons so ordained by any such bishop shall be issued in the name of, and be subscribed with the signature of such bishop as commissary of the bishop of the diocese, and shall be sealed with the seal of the bishop of such diocese.

Persons ordained under 24 Geo. 3. sess. 2. c. 35. or 59 Geo. 3. c. 60. s. 1. subject to Act.

9. Any person ordained a deacon or priest under the provisions of an Act of the second session of the twenty-fourth year of King George the Third, chapter thirty-five, or under the first section of an Act of the fifty-ninth year of King George the Third, chapter sixty, shall be subject to the provisions contained in this Act.

Contrariety to certain enactments not to invalidate admissions to ecclesiastical preferments, &c.

10. No admission, institution, induction, or appointment to any benefice or other ecclesiastical preferment within Her Majesty's dominions, nor any appointment to act as curate therein, nor any ministerial act performed by any person as priest or deacon of any of the churches aforesaid, shall be or be deemed to have been invalid at law by reason of its contrariety to any of the enactments set forth in Schedule B. to this Act annexed, unless its validity shall be inconsistent with the validity of some act, matter, or thing lawfully done before the passing of this Act.

Saving of 27 & 28 Vict. c. 94.

11. Nothing in this Act contained shall alter or affect any of the provisions of an Act of the twenty-seventh and twenty-eighth years of Her present Majesty, chapter ninety-four, intituled "An Act to remove disabilities affecting the bishops and clergy of the Protestant Episcopal Church in Scotland."

Archbishops may dispense with oath of due obedience.

12. It shall be lawful for the archbishop of Canterbury or the archbishop of York for the time being, in consecrating any person to the office of bishop for the purpose of exercising episcopal functions elsewhere than in England, to dispense, if he think fit, with the oath of due obedience to the archbishop.

Indian bishops.

13. Nothing contained in an Act of the fifty-third year of King George the Third, chapter one hundred and fifty-five, or in an Act of the third and fourth years of King William the Fourth, chapter eighty-five, or in any letters patent issued as mentioned in the said Acts, or either of them, shall prevent any person who shall be or shall have been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

Interpretation of terms.

14. In this Act the word "bishop" shall, when not inconsistent with the context, include archbishop; the words "bishop" and "archbishop," in the

matters of "permission" and "consent," and of "consent and license," shall include the lawful commissary of a bishop or an archbishop; the word "England" shall include the Isle of Man and the Channel Islands; and the term "church or chapel" shall mean church or chapel subject to the ecclesiastical law of the Church of England.

SCHEDULE A.

Date of Act.	Title of Act.	Extent of Repeal.
24 Geo. 3. sess. 2. c. 35.	An Act to empower the Bishop of London for the time being, or any other bishop to be by him appointed, to admit to the order of deacon or priest persons being subjects or citizens of countries out of His Majesty's dominions, without requiring them to take the oath of allegiance as appointed by law.	Sec. 2.
26 Geo. 3. c. 84. ...	An Act to empower the Archbishop of Canterbury or the Archbishop of York for the time being to consecrate to the office of a bishop persons being subjects or citizens of countries out of His Majesty's dominions.	So far as the same is in force in any part of Her Majesty's dominions out of the United Kingdom.
59 Geo. 3. c. 60. ...	An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the time being to admit persons into holy orders specially for the colonies.	Secs. 2, 3, 4 and 5.
3 & 4 Vict. c. 33. ...	An Act to make certain provisions and regulations in respect to the exercise within England and Ireland of their office by the bishops and clergy of the Protestant Episcopal Church in Scotland, and also to extend such provisions and regulations to the bishops and clergy of the Protestant Episcopal Church in the United States of America, and also to make further regulations in respect to bishops and clergy other than those of the United Church of England and Ireland.	The whole.
5 Vict. c. 6. ...	An Act to amend an Act made in the twenty-sixth year of the reign of His Majesty King George the Third, intituled "An Act to empower the Archbishop of Canterbury or the Archbishop of York for the time being to consecrate to the office of a bishop persons being subjects or citizens of countries out of His Majesty's dominions."	Sec. 4.

SCHEDULE B.

ENACTMENTS REFERRED TO IN CLAUSE 10 OF THIS ACT.

Date of Act.	Title.	Section.
24 Geo. 3. sess. 2. c. 35.	An Act to empower the Bishop of London for the time being, or any other bishop to be by him appointed, to admit to the order of deacon or priest persons being subjects or citizens of countries out of His Majesty's dominions, without requiring them to take the oath of allegiance as appointed by law.	Sec. 2.
26 Geo. 3. c. 84. ...	An Act to empower the Archbishop of Canterbury or the Archbishop of York for the time being to consecrate to the office of a bishop persons being subjects or citizens of countries out of His Majesty's dominions.	Sec. 3.
59 Geo. 3. c. 60. ...	An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the time being to admit persons into holy orders specially for the colonies.	Secs. 2, 3, 4, 5.
3 & 4 Vict. c. 33. ...	An Act to make certain provisions and regulations in respect to the exercise within England and Ireland of their office by the bishops and clergy of the Protestant Episcopal Church in Scotland; and also to extend such provisions and regulations to the bishops and clergy of the Protestant Episcopal Church in the United States of America; and also to make further regulations in respect to bishops and clergy other than those of the United Church of England and Ireland.	Secs. 6, 7.
5 Vict. c. 6. ...	An Act to amend an Act made in the twenty-sixth year of the reign of His Majesty King George the Third, intituled "An Act to empower the Archbishop of Canterbury or the Archbishop of York for the time being to consecrate to the office of a bishop persons being subjects or citizens of countries out of His Majesty's dominions."	Sec. 4.

37 & 38 VICTORIA. A. D. 1874.

CHAPTER LXXXVIII.

An Act to amend the Law relating to the Registration of Births and Deaths in England, and to consolidate the Law respecting the Registration of Births and Deaths at Sea. [*7th August 1874.*]

WHEREAS it is expedient to amend the Acts relating to the registration of

births and deaths in England, and to consolidate the law respecting the registration of births and deaths at sea:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

* * * * * * * * *

Registration of Births and Deaths at Sea.

Registration of births and deaths at sea.

37. THE provisions of this Act, save as is herein expressly provided, shall not apply to the registration of births and deaths on board a vessel at sea, with respect to which the following provisions shall have effect:

(1.) The captain or master of or other person having the command or charge of a British ship shall, as soon as may be after the occurrence of the birth of a child or the death of a person on board such ship, record in his log-book or otherwise the fact of such birth or death, and the particulars required by the fourth schedule to this Act to be registered concerning such birth or death, or such of them as may be known to him, and shall, (unless the ship is one of Her Majesty's ships,) upon the arrival of such ship at any port of the United Kingdom, or at such other time or place as the Board of Trade may from time to time with respect to any ship or class of ships direct, deliver or send, in such form and manner as the Board of Trade may from time to time direct, a return of the facts so recorded to the registrar general of shipping and seamen.

(2.) Where a ship which is not a British ship carries passengers to or from any port of the United Kingdom as the port of destination or the port of departure of such ship, the provisions of this section shall apply to the captain or master of or other person having the command or charge of such ship, in like manner as if it were a British ship.

(3.) Where the said return is directed by the Board of Trade (whether the ship is British or foreign) to be delivered upon the arrival of the ship, or the discharge of the crew, or otherwise, at any port or place out of the United Kingdom, the Board of Trade may, if they think fit, direct that the return instead of being delivered to the registrar general of shipping and seamen shall be delivered, and the same shall accordingly be delivered, if such port or place is within Her Majesty's dominions, to the shipping master or collector of customs at such port or place, and if it is a foreign port or place, to the principal British consular officer at the said foreign port or place, and such shipping master, collector, or officer shall

send the same, as soon as may be, by post or otherwise, to the registrar general of shipping and seamen.

(4.) Where it appears from any such return that the father of any child so born, or if the child is a bastard the mother of such child, was a Scotch or Irish subject of Her Majesty, or that any person whose death is mentioned in such return was a Scotch or Irish subject of Her Majesty, the registrar general of shipping and seamen shall from time to time send a certified copy of so much of the return as relates to such birth or death to the registrar general of births and deaths in Scotland or Ireland, as the case may require.

(5.) The registrar general of shipping and seamen shall from time to time send to the registrar general of births and deaths in England a certified copy of every other such return, or of that part of every such return which is not so sent to the registrar general of births and deaths in Scotland or Ireland.

(6.) A captain of or other person having charge of one of Her Majesty's ships shall, upon the arrival of any such ship in any port of the United Kingdom, or at such other time as the commissioners of the Admiralty may from time to time direct, deliver or send, in such manner and form as the said commissioners may from time to time direct, a return of the facts recorded in pursuance of this section to that registrar general of births and deaths to whom a copy of such return would, if the ship were a merchant ship, be sent under the provisions of this section by the registrar general of shipping and seamen.

(7.) Every registrar general of births and deaths to whom a copy of any return or a return is sent in pursuance of this section shall cause the same to be filed and preserved in or copied in a book to be kept by him for the purpose, and to be called a marine register book, and such book shall be deemed to be a certified copy of a register book within the meaning of the Acts relating to the registration of births and deaths in England, Scotland, and Ireland respectively.

(8.) Every captain or master of or other person having charge of a ship who fails to comply with this section shall be liable to a penalty not exceeding five pounds for each offence; and such penalty may be recovered in the same courts and places and in the like manner, and when recovered shall be applied in like manner, as a penalty under the Merchant Shipping Act, 1854.

(9.) This section shall extend to all places and persons within British jurisdiction.

(10.) Terms in this section shall have the same meaning as in the Merchant Shipping Act, 1854.

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FOURTH SCHEDULE.

Particulars to be registered by Captain of a Ship concerning a Birth at Sea.

Date of birth.
Name (if any) and sex of the child.
Name and surname, and rank, profession, or occupation of the father.
Name and surname, and maiden surname of mother.
Nationality and last place of abode of the father and mother.

Particulars to be registered by Captain of a Ship concerning a Death at Sea.

Date of death.
Name and surname.
Sex.
Age.
Rank, profession, or occupation.
Nationality and last place of abode.
Cause of death.

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY.

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37 & 38 VICTORIA. A. D. 1874.

CHAPTER XCI.

An Act to amend the Law relating to the Council of the Governor General of India. [*7th August 1874.*]

WHEREAS it is expedient to amend the law relating to the Council of the Governor General of India:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Number of ordinary members of Governor

1. IT shall be lawful for Her Majesty, if she shall see fit, to increase the number of the ordinary members of the Council of the Governor General of India to six, by appointing any person, from time to time, by warrant under

General's Council may be increased. 24 & 25 Vict. c. 67. 32 & 33 Vict. c. 97.

Her Royal Sign Manual, to be an ordinary member of the said Council in addition to the ordinary members thereof appointed under section three of the "Indian Councils Act, 1861," and under section eight of the Act of the thirty-second and thirty-third years of Her present Majesty, chapter ninety-seven. The law for the time being in force with reference to ordinary members of the Council of the Governor General of India shall apply to the person so appointed by Her Majesty under this Act, who shall be called the member of Council for public works purposes.

Number of members of Council may be subsequently diminished.

2. WHENEVER a member of Council for public works purposes shall have been appointed under the first section of this Act, it shall be lawful for Her Majesty, if she shall see fit, to diminish, from time to time, the number of the ordinary members of the Council of the Governor General of India to five, by abstaining so long as she shall deem proper from filling up any vacancy or vacancies occurring in the offices of the ordinary members of the said Council appointed under section three of "The Indian Councils Act, 1861," and under section eight of the Act of the thirty-second and thirty-third years of Her present Majesty, chapter ninety-seven, not being a vacancy in the office of the ordinary member of Council required by law to be a barrister or a member of the Faculty of Advocates in Scotland; and whenever the Secretary of State for India shall have informed the Governor General of India that it is not the intention of Her Majesty to fill up any vacancy, no temporary appointment shall be made to such vacancy under section twenty-seven of "The Indian Councils Act, 1861," and if any such temporary appointment shall have been made previously to the receipt of such information, the tenure of office of the person temporarily appointed shall cease and determine from the time of the receipt of such information by the Governor General.

Not to affect power of Governor General in respect of his Council.

3. NOTHING in this Act contained shall affect the provisions of section eight of "The Indian Councils Act, 1861," or the provisions of section five of the Act of the thirty-third year of Her Majesty, chapter three, or any power or authority vested by law in the Governor General of India in respect of his Council or of the members thereof.

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38 & 39 VICTORIA. A. D. 1875.

CHAPTER LXXIII.

An Act to amend the law relating to the appointment of certain persons who entered the employment of the Home Government of India before the thirty-first day of December one thousand eight hundred and seventy-four.

[*11th August 1875.*]

WHEREAS by the sixteenth section of the Act of the twenty-first and

twenty-second years of the reign of Her Majesty, chapter one hundred and six, it is provided that after the first formation of the permanent establishment of the Secretary of State for India in Council the order of Her Majesty in Council of the twenty-first day of May one thousand eight hundred and fifty-five, or such other regulations as might be from time to time established by Her Majesty, for examinations, certificates, probation, or other tests of fitness in relation to appointments to junior situations in the civil service, should apply to such appointments on the said establishment:

And whereas it appears that persons have been appointed to junior situations on the said establishment who ought in pursuance of the sixteenth section of the said Act, and the Order in Council and regulations therein referred to, to have obtained previous to their appointment certificates from the civil service commissioners, but through inadvertence on the part of the Secretary of State in Council, and without any default of the persons so appointed, no steps were taken before their appointment to procure for them such certificates:

And whereas it is unjust that the persons so appointed should be deprived of any rewards or advantages which they were led to expect at the time when they entered the said establishment:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Secretary of State for India may make orders as to persons appointed without certificate from civil service commissioners.

1. The Secretary of State for India in Council may, if he thinks fit, at any time before the first day of January one thousand eight hundred and seventy-six, declare by order or warrant that any person who has been appointed to a junior situation on the said establishment without a certificate from the civil service commissioners, after the first formation of the said establishment and before the thirty-first day of December one thousand eight hundred and seventy-four, was so appointed through inadvertence on the part of the Secretary of State for India in Council, and without any default on the part of the person so appointed, and that such person has been found throughly capable and efficient in the discharge of his duties; and every person with respect to whom such order or warrant may be issued shall be in the same position as regards his claim to all salaries, superannuation allowances, or gratuities, emoluments, or advantages whatsoever, as he would have been in if he had obtained previous to his appointment a certificate from the civil service commissioners.

Order to be laid before Parliament.

Any order or warrant made in pursuance of this Act shall be laid before both Houses of Parliament within fourteen days after the meeting thereof if

Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting thereof.

The Secretary of State for India in Council shall cause to be laid before Parliament, not later than the expiration of one month after the commencement of the session in Parliament in the year one thousand eight hundred and seventy-six, a return showing the names of all persons with respect to whom any order or warrant has been issued in pursuance of this section, together with the situations to which they have been appointed.

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38 & 39 VICTORIA. A. D. 1875.

CHAPTER LXXXV.

An Act for amending the Foreign Jurisdiction Acts.

[*13th August 1875.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Validity of acts done under Order in Council under Foreign Jurisdiction Acts.

1. WHERE, by Order of the Queen in Council in pursuance of the Foreign Jurisdiction Acts, any court, judge, magistrate, or officer acting or exercising jurisdiction within or in relation to any country or place out of her Majesty's dominions, is authorized to order the removal or deportation of any person from that country or place, such removal or deportation, and any detention for the purposes thereof, according to the provisions of the Order in Council, shall be as lawful as if the order of the court, judge, magistrate, or officer were to have effect wholly within that country or place.

Construction and short titles.

2. THIS Act shall be construed as one with the Foreign Jurisdiction Act, 1843, and the Acts amending the same, and together with those Acts may be cited as the Foreign Jurisdiction Acts, 1843 to 1875, and may be cited separately as the Foreign Jurisdiction Act, 1875.

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39 VICTORIA. A. D. 1876.

CHAPTER VII.

An Act to amend the Law relating to certain Appointments to the Council of India. [*7th April 1876.*]

WHEREAS by an Act of the thirty-second and thirty-third years of the reign of Her present Majesty, chapter ninety-seven (in this Act referred to as the Act of 1869), it was, among other things, provided that the members of

the Council of India were to hold their offices for a period of ten years, and for such further period as is in section three of the said Act mentioned:

And whereas, regard being had to the composition of the said Council contemplated in section ten of the Act of the twenty-first and twenty-second years of Her present Majesty, chapter one hundred and six (in this Act referred to as the Act of 1858), it is expedient to amend the said first-mentioned Act in certain particulars:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appointment of persons with professional or other qualifications.

1. NOTWITHSTANDING anything in the Act of 1869, the Secretary of State for India may, if he thinks fit, subject to the condition as to the number of appointments herein-after laid down, appoint any person having professional or other peculiar qualifications to be a member of the said Council under this Act; and every person so appointed shall hold his office in the same manner, and shall be entitled to the same salary, pension, and other rights and privileges, and be subject to the same disabilities, as if he had been elected or appointed before the passing of the Act of 1869.

Where any person appointed under this Act is at his appointment a member of the Council, his period of service for the purposes of this Act shall be reckoned from the time of his first appointment or election to the Council.

The special reasons for every appointment under this Act shall be stated in a minute of the Secretary of State for India, and shall be laid before both Houses of Parliament. Not more than three persons appointed under this Act shall be members of the Council at the same time; nor shall the provisions of sections seven and ten of the Act of 1858, with reference to the number of the Council and the qualification of the major part of the members, be affected by this Act.

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39 VICTORIA. A. D. 1876.

CHAPTER X.

An Act to enable Her most Gracious Majesty to make an addition to the Royal Style and Titles appertaining to the Imperial Crown of the United Kingdom and its Dependencies. [*27th April 1876.*]

WHEREAS by the Act for the union of Great Britain and Ireland passed in the fortieth year of the reign of His late Majesty King George the Third, chapter sixty-seven, it was provided that after such union as aforesaid the Royal

39 & 40 Geo. 3, c. 67. A. D. 1800.

style and titles appertaining to the imperial Crown of the United Kingdom and its dependencies should be such as His Majesty by his Royal proclamation under the Great Seal of the United Kingdom should be pleased to appoint:

And whereas by virtue of the said Act and of a Royal proclamation under the Great Seal, dated the first day of January one thousand eight hundred and one, the present style and titles of Her Majesty are "Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith":

21 & 22 Vict. c. 106.

And whereas by the Act for the better government of India, passed in the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six, it was enacted that the government of India, theretofore vested in the East India Company in trust for Her Majesty, should become vested in Her Majesty, and that India should thenceforth be governed by and in the name of Her Majesty, and it is expedient that there should be a recognition of the transfer of government so made by means of an addition to be made to the style and titles of Her Majesty:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to Her Majesty to make addition to style and titles of Crown.

It shall be lawful for Her most gracious Majesty with a view to such recognition as aforesaid of the transfer of the government of India, by Her Royal proclamation under the Great Seal of the United Kingdom, to make such addition to the style and titles at present appertaining to the imperial Crown of the United Kingdom and its dependencies as to Her Majesty may seem meet.

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39 & 40 VICTORIA. A. D. 1876.

Chapter XXXVI.

An Act to consolidate the Customs Laws.

[*24th July 1876.*]

Whereas it is expedient that the several Acts now in force for the management and regulation of Customs should be consolidated into one Act:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Foreign reprints of books under copyright prohibited.

152. ANY books wherein the copyright shall be subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, shall be and are hereby absolutely prohibited to be imported into the British possessions abroad: Provided always, that no such books shall be prohibited to be imported as aforesaid unless the proprietor of such copyright, or his agent, shall have given notice in writing to the commissioners of Customs that such copyright subsists, and in such notice shall have stated when the copyright will expire; and the said commissioners shall cause to be made and transmitted to the several ports in the British possessions abroad, from time to time to be publicly exposed there, lists of books respecting which such notice shall have been duly given, and all books imported contrary thereto shall be forfeited; but nothing herein contained shall be taken to prevent Her Majesty from exercising the powers vested in her by the tenth and eleventh Victoria, chapter ninety-five, intituled "An Act to amend the law relating to the protection in the colonies of works entitled to copyright in the United Kingdom," to suspend in certain cases such prohibition.

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39 & 40 VICTORIA. A. D. 1876.

CHAPTER XLVI.

An Act for more effectually punishing Offences against the Laws relating to the Slave Trade.

[*11th August 1876.*]

32 & 33 Vict. c. 98.

WHEREAS under an Act passed in the session holden in the thirty-second and thirty-third years of the reign of Her present Majesty, the Governor General of India in Council is empowered to make laws for native Indian subjects of Her Majesty without and beyond British India:

28 & 29 Vict. c. 17.

And whereas under an Act passed in the session holden in the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, the Governor General of India in Council is empowered to make laws for all British subjects of Her Majesty within the dominions of princes and states in India in alliance with Her Majesty whether in the service of the Government of India or otherwise:

And whereas the several princes and states in India in alliance with Her Majesty have no connexions, engagements, or communications with foreign powers, and the subjects of such princes and states are, when residing or being in the places herein-after referred to, entitled to the protection of the British Government, and receive such protection equally with the subjects of Her Majesty:

And whereas it is expedient to make provision for more effectually punishing offences against the laws relating to the slave trade by British subjects and other persons protected by the British Government in such places:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Certain offenders on high seas punished as though offence committed in India.

1. If any person, being a subject of Her Majesty or of any prince or state in India in alliance with Her Majesty, shall, upon the high seas or in any part of Asia or Africa which Her Majesty may from time to time think fit to specify by any Order in Council in this behalf, commit any of the offences defined in sections 367, 370, and 371 (in the schedule to this Act respectively recited) of Act 45 of 1860, passed by the Governor General of India in Council and called "The Indian Penal Code," or abet within the meaning of the fifth chapter of the said Penal Code the commission of any such offence, such person shall be dealt with, in respect of such offence or abetment, as if the same had been committed in any place within British India in which he may be or may be found.

Sect. 1 may be made to apply to future amendments of this Act.

2. If the Governor General of India in Council shall, at a meeting for making laws and regulations, amend the provisions of the said sections 367, 370, and 371 of the said Penal Code, or any of them, or the said fifth chapter thereof so far as relates to the abetment of any of the offences forbidden by such sections, or make any further provision for preventing or suppressing the making, buying, or selling of slaves or any of the offences comprised in the said three sections, the Secretary of State for India shall, unless Her Majesty has disallowed such amendment or further provision, lay a copy of the amending Act before each House of Parliament, and after the same shall have lain on the table of both Houses of Parliament for the space of forty days, it shall be lawful for Her Majesty, unless either House of Parliament shall present an address to Her Majesty to the contrary, to direct by Order in Council that the provisions of the first section of this Act shall apply to the law so amended or enlarged, and the same shall be applicable accordingly.

Powers of High Court for purpose of obtaining evidence.

3. For the purpose of obtaining evidence of the commission of the offences made punishable by this Act or any Act of Parliament relating to slavery or the slave trade, every High Court in India shall have, as respects the persons in the first section of this Act referred to, and as respects any British colony, settlement, plantation, or territory, wherein any witness may be, the same powers as are conferred on the Court of Queen's Bench by the fourth section of an Act made and passed in the session of Parliament holden in the sixth and seventh years of Her Majesty's reign, chapter ninety-eight,

with respect to such British colonies, settlements, plantations, and territories as are therein referred to.

And every High Court may, if it thinks fit, issue such commission as is mentioned in section 330 of Act X of 1872, passed by the Governor General of India in Council, and called "The Code of Criminal Procedure," to any consular officer of Her Majesty in the parts of Asia or Africa specified in any Order of Her Majesty in Council under section 1 of this Act, or to any political officer or agent of the Governor General of India in Council or of any Indian Government in the said parts or in the dominions of any prince or state in India in alliance with Her Majesty, or to any magistrate in Her Majesty's Indian dominions.

And the depositions taken by virtue of the said powers or under such commission shall be deemed by every court of original or appellate jurisdiction in India in any trial or proceeding under this Act or any Act of Parliament relating to slavery or the slave trade to be as good and competent evidence as if the witnesses deposing had been present and examined vivâ voce and had made oath or affirmation as required by law.

Subjects of certain Indian princes made amenable to certain Orders in Council.

4. AND whereas by certain Orders of Her Majesty in Council made by virtue of an Act made and passed in the session of Parliament holden in the six and seventh years of Her Majesty's reign, chapter ninety-four, which Orders are dated respectively the ninth August one thousand eight hundred and sixty-six and the fourth November one thousand eight hundred and sixty-seven, it is ordered that the provisions of such Orders relating to British subjects shall extend and apply to all subjects of Her Majesty, whether by birth or by naturalization, and also to all persons enjoying Her Majesty's protection in the several dominions mentioned in such Orders respectively:

It is hereby declared and enacted that for the purposes of the said Orders in Council, and of any Orders in Council which Her Majesty may hereafter think fit to make by virtue of the said Act of the sixth and seventh years of Her Majesty's reign, chapter ninety-four, all subjects of the several princes and states in India in alliance with Her Majesty, residing and being in the several dominions comprised in such Orders respectively, are and shall be deemed to be persons enjoying Her Majesty's protection therein.

Saving powers of Governor General.

5. NOTHING in this Act shall be deemed to restrict the legislative power which the Governor General of India in Council possesses at meetings for the purpose of making laws and regulations.

Not to affect Orders made under 6 & 7 Vict. c. 94.

6. SAVE as aforesaid, nothing in this Act shall be deemed to affect any Order made or to be made by Her Majesty in Council by virtue of the said Act of the sixth and seventh years of Her Majesty, chapter ninety-four.

SCHEDULE.

S. 367 of the Indian Penal Code.—Whoever kidnaps or abducts any person, in order that such person may be subjected or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine.

S. 370.—Whoever imports, exports, removes, buys, sells, or disposes of, any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to a fine.

S. 371.—Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to a fine.

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39 & 40 VICTORIA. A. D. 1876.

CHAPTER LXXX.

An Act to amend the Merchant Shipping Acts.

[*15th August 1876.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. THIS Act may be cited as the Merchant Shipping Act, 1876.

Construction of Act.

2. THIS Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same; and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1876.

Commencement of Act.

3. THIS Act shall come into operation on the first day of October 1876 (which day is in this Act referred to as the commencement of this Act); nevertheless any Orders in Council and general rules under this Act may be made at any time after the passing of this Act, but shall not come into operation before the commencement of this Act.

Unseaworthy Ships.

Sending unseaworthy ship to sea a misdemeanor.

4. EVERY person who sends or attempts to send, or is party to sending or attempting to send a British ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

Every master of a British ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanor, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

A prosecution under this section shall not be instituted except by or with the consent of the Board of Trade, or of the governor of the British possession in which such prosecution takes place.

A misdemeanor under this section shall not be punishable upon summary conviction.

Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.

5. IN every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided, that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending thereof to sea is reasonable and justifiable.

Power to detain unsafe ships, and procedure for such detention.

6. WHERE a British ship, being in any port of the United Kingdom, is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (herein-after referred to as "unsafe")

may be provisionally detained for the purpose of being surveyed, and either finally detained or released, as follows:

(1.) The Board of Trade, if they have reason to believe on complaint, or otherwise, that a British ship is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed.

(2.) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Board of Trade may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board.

(3.) The Board of Trade on receiving the report may either order the ship to be released or, if in their opinion the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo, as the Board think necessary for the protection of human life, and may from time to time vary or add to any such order.

(4.) Before the order for final detention is made a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master of the ship may appeal in the prescribed manner to the court of survey (herein-after mentioned) for the port or district where the ship is detained.

(5.) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes such survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey (nominated as herein-after mentioned), and in such case if the surveyor and assessor agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section.

(6.) Where a ship has been provisionally detained, the Board of Trade may at any time, if they think it expedient, refer the matter to the court of survey for the port or district where the ship is detained.

(7.) The Board of Trade may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions.

(8.) For the better execution of this section, the Board of Trade, with the consent of the Treasury, may from time to time appoint a sufficient number of fit officers, and may remove any of them.

(9.) Any officer so appointed (in this Act referred to as a detaining officer) shall have the same power as the Board of Trade have under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(10.) A detaining officer shall forthwith report to the Board of Trade any order made by him for the detention or release of a ship.

Constitution of court of survey for appeals.

7. A COURT of survey for a port or district shall consist of a judge sitting with two assessors.

The judge shall be such person as may be summoned for the case in accordance with the rules made under this Act out of a list (from time to time approved for the port or district by one of Her Majesty's principal secretaries of state, in this Act referred to as a secretary of state,) of wreck commissioners appointed under this Act, stipendiary or metropolitan police magistrates, judges of county courts, and other fit persons; but in any special case in which the Board of Trade think it expedient to appoint a wreck commissioner, the judge shall be such wreck commissioner.

The assessors shall be persons of nautical engineering or other special skill and experience; one of them shall be appointed by the Board of Trade, either generally or in each case, and the other shall be summoned in accordance with the rules under this Act by the registrar of the court, out of a list of persons periodically nominated for the purpose by the local marine board of the port, or, if there is no such board, by a body of local shipowners or merchants approved for the purpose by a secretary of state, or, if there is no such list, shall be appointed by the judge; if a secretary of state thinks fit at any time, on the recommendation of the government of any British possession or any foreign state, to add any person or persons to any such list, such person or persons shall, until otherwise directed by the secretary of state, be added to such list, and if there is no such list shall form such list.

The county court registrar or such other fit person as a secretary of state may from time to time appoint shall be the registrar of the court, and shall, on receiving notice of an appeal or a reference from the Board of Trade, immediately summon the court in the prescribed manner to meet forthwith.

The name of the registrar and his office, together with the rules made under this Act relating to the court of survey, shall be published in the prescribed manner.

Power and procedure of court of survey.

8. With respect to the court of survey the following provisions shall have effect:

(1) The case shall be heard in open court;

(2) The judge and each assessor may survey the ship, and shall have for the purposes of this Act all the powers of an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854;

(3) The judge may appoint any competent person or persons to survey the ship and report thereon to the court;

(4) The judge shall have the same power as the Board of Trade have to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released;

(5) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Board of Trade, may attend at any inspection or survey made in pursuance of this section;

(6) The judge shall send to the Board of Trade the prescribed report, and each assessor shall either sign the report or report to the Board of Trade the reasons for his dissent.

Rules for procedure of court of survey, &c.

9. The Lord Chancellor of Great Britain may from time to time (with the consent of the Treasury so far as relates to fees) make, and when made revoke, alter, and add to general rules to carry into effect the provisions of this Act with respect to a court of survey, and in particular with respect to the summoning of and procedure before the court, the requiring on an appeal security for costs and damages, the amount and application of fees, and the publication of the rules.

All such rules while in force shall have effect as if enacted in this Act, and the expression "prescribed" in the provisions of this Act relating to the detention of ships or court of survey means prescribed by such rules.

Liability of Board of Trade and shipowner for costs and damages.

10. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship, the Board of Trade shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of such detention, unsafe within the meaning of this Act, the owner of the ship shall be liable to pay to the Board of Trade their costs of and incidental to the detention and survey of the ship,

and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

For the purposes of this Act the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Board of Trade, shall be deemed to be part of the costs of the detention and survey of the ship, and any dispute as to the amount of costs under this Act may be referred to one of the masters or registrars of the Supreme Court of Judicature, who, on request made to him for that purpose by the Board of Trade, shall ascertain and certify the proper amount of such costs.

An action for any costs or compensation payable by the Board of Trade under this section may be brought against the secretary thereof by his official title as if he were a corporation sole; and if the cause of action arises in Ireland, it shall be lawful for any of the superior courts of common law in Ireland in which such action may be commenced to order that the summons or writ may be served on the Crown and Treasury solicitor for Ireland, in such manner and on such terms as to extension of time and otherwise as to the court shall seem fit, and that such service shall be deemed good and sufficient service of such summons or writ upon the secretary of the Board of Trade.

Power to require from complainant security for costs.

11. WHERE a complaint is made to the Board of Trade or a detaining officer that a British ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as herein-after mentioned.

Provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Board or officer frivolous or vexatious, such security shall not be required, and the Board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Act.

Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board of Trade are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

Supplemental provisions as to detention of ship.

12. (1.) A DETAINING officer shall have for the purpose of his duties under this Act the same powers as an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

(2.) An order for the detention of a ship, provisional or final, and an

order varying the same, shall be served as soon as may be on the master of the ship.

(3.) When a ship has been detained under this Act she shall not be released by reason of her British register being subsequently closed.

(4.) For the purposes of a survey of a ship under this Act any person authorized to make the same may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle.

(5.) The provisions of the Merchant Shipping Act, 1854, with respect to persons who wilfully impede an inspector, or disobey a requisition or order of an inspector, shall apply as if those provisions were herein enacted, with the substitution for the inspector of any judge, assessor, officer, or surveyor who under this Act has the same powers as an inspector or has authority to survey a ship.

Foreign Ships, overloading.

Application to foreign ships of provisions as to detention.

13. WHERE a foreign ship has taken on board all or any part of her cargo at a port in the United Kingdom, and is whilst at that port unsafe by reason of overloading or improper loading, the provisions of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications:

(1) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the state to which the ship belongs at or nearest to the place where the ship is detained:

(2) Where a ship has been provisionally detained, the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Board of Trade to survey the ship shall be accompanied by such person as the consular officer may select, and in such case, if the surveyor and such person agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the appeal to the court of survey touching the report of the surveyor which is before provided by this Act; and

(3) Where the owner or master of the ship appeals to the court of survey, the consular officer, on the request of such owner or master, may appoint any competent person who shall be assessor

in such case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Board of Trade.

In this section the expression "consular officer" means any consul-general, vice-consul, consular agent, or other officer recognised by a secretary of state as a consular officer of a foreign state.

Appeal on Refusal of certain Certificates to Ships.

Appeal on refusal of certain certificates under Merchant Shipping and Passengers Acts.

14. WHEREAS by section three hundred and nine of the Merchant Shipping Act, 1854, and enactments amending the same, the owner of a passenger steamer as defined in that Act is required to cause the same to be surveyed by a shipwright surveyor and an engineer surveyor, and those surveyors are required to give declarations of certain particulars with respect to the sufficiency or conformity with the Act of the ship and equipments, and to the limits beyond which the ship is not fit to ply, and to the number of passengers which the ship is fit to carry, and of other particulars in the said section mentioned, and the Board of Trade, under section three hundred and twelve of the same Act, issue a certificate upon such declarations, and the passenger steamer cannot lawfully proceed to sea without obtaining such certificate;

And whereas under sections eleven and fifty of the Passengers Act, 1855, and the enactments amending the same, a passenger ship within the meaning of those sections (in this Act referred to as an emigrant ship) cannot lawfully proceed to sea without a certificate of clearance from an emigration officer, or other officer in those sections mentioned, showing that all the requirements of the said sections and enactments have been complied with, and that the ship is in the officer's opinion seaworthy, and that the passengers and crew are in a fit state to proceed to sea, and otherwise as therein mentioned;

And whereas by section thirty of the Merchant Shipping Act Amendment Act, 1862, provision is made for preventing a ship from proceeding to sea in certain cases without a certificate from a surveyor or person appointed by the Board of Trade to the effect that the ship is properly provided with lights, and with the means of making fog signals;

And whereas it is expedient to give in the said cases such appeal as hereinafter mentioned: Be it therefore enacted that—

if a shipowner feels aggrieved,

(1) by a declaration of a shipwright surveyor or an engineer surveyor respecting a passenger steamer under the above-recited enactments, or by the refusal of a surveyor to give the said declaration; or

(2) by the refusal of a certificate of clearance for an emigrant ship under the above-recited enactments; or

(3) by the refusal of a certificate as to lights or fog signals under the above-recited enactment,

the owner may appeal in the prescribed manner to the court of survey for the port or district where the ship for the time being is.

On such appeal the judge of the court of survey shall report to the Board of Trade on the question raised by the appeal, and the Board of Trade, when satisfied that the requirements of the report and the other provisions of the said enactments have been complied with, may,—

(1) in the case of a passenger steamer give their certificate under section three hundred and twelve of the Merchant Shipping Act, 1854, and

(2) in the case of an emigrant ship give, or direct the emigration or other officer to give, a certificate of clearance under the above-mentioned enactments, and

(3) in the case of a refusal of a certificate as to lights or fog signals give or direct a surveyor or other person appointed by them to give a certificate under section thirty of the Merchant Shipping Act Amendment Act, 1862.

Subject to any order made by the judge of the court of survey, the cost of and incidental to an appeal under this section shall follow the event.

Subject as aforesaid, the provisions of this Act with respect to the court of survey and appeals thereto, so far as consistent with the tenour thereof, shall apply to the court of survey when acting under this section, and to appeals under this section.

Where the survey of a ship is made for the purpose of a declaration or certificate under the above-recited enactments, the person appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some person appointed by the owner, and in such case, if the said two persons agree, there shall be no appeal to the court of survey in pursuance of this section.

Scientific Referees.

Reference in difficult cases to scientific persons.

15. If the Board of Trade are of opinion that an appeal under this Act involves a question of construction or design or of scientific difficulty or important principle, they may refer the matter to such one or more out of a list of scientific referees from time to time approved by a secretary of state, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Board of Trade and the appellant, or in default of any such agreement by a secretary of state, and thereupon the appeal shall be determined by the referee or referees, instead of by the court of survey.

The Board of Trade, if the appellant in any appeal so require and give security to the satisfaction of the Board to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.

The referee or referees shall have the same powers as a judge of the court of survey.

Passenger Steamers and Emigrant Ships.

Exemption of certain steamers from passenger certificates.

16. ANY steamship may carry passengers not exceeding twelve in number although she has not been surveyed by the Board of Trade as a passenger steamer, and does not carry a Board of Trade certificate as provided by the Merchant Shipping Act, 1854, with respect to passenger steamers.

Colonial certificates for passenger steamers.

17. WHERE the legislature of any British possession provides for the survey of and grant of certificates for passenger steamers, and the Board of Trade report to Her Majesty that they are satisfied that the certificates are to the like effect, and are granted after a like survey, and in such manner as to be equally efficient with the certificates granted for the same purpose in the United Kingdom under the Acts relating to merchant shipping, it shall be lawful for Her Majesty by Order in Council—

1. to declare that the said certificates shall be of the same force as if they had been granted under the said Acts; and
2. to declare that all or any of the provisions of the said Acts which relate to certificates granted for passenger steamers under those Acts shall, either without modification or with such modifications as to Her Majesty may seem necessary, apply to the certificates referred to in the order; and
3. to impose such conditions and to make such regulations with respect to the said certificates, and to the use, delivery, and cancellation thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Provision against double survey in case of passenger steamers and emigrant ships.

18. IN every case where a passenger certificate has been granted to any steamer by the Board of Trade under the provisions of the Merchant Shipping Act, 1854, and remains still in force, it shall not be requisite for the purposes of the employment of such steamer under the Passengers Acts that she shall be again surveyed in her hull and machinery in order to qualify her for service under the Passengers Act, 1855, and the Acts amending the same; but for the purposes of employment under those Acts such Board of Trade certificate shall be deemed to satisfy the requirements of the Passengers Acts with respect to such survey, and any further survey of the hull and machinery shall be dispensed with, and so long as a steamship is an emigrant ship, that is, a

passenger ship within the meaning of the Passengers Act, 1855, and the Acts amending the same, and the provisions contained in the said Passengers Acts as to the survey of her hull, machinery, and equipments have been complied with, she shall not be subject to the provisions of the Merchant Shipping Act, 1854, with respect to the survey of and certificate for passenger steamers, or to the enactments amending the same.

Provision as to survey of foreign passenger steamer or emigrant ship.

19. WHERE a foreign ship is a passenger steamer subject to the Merchant Shipping Act, 1854, and the Acts amending the same, or an emigrant ship subject to the Passengers Act, 1855, and the Acts amending the same, and the Board of Trade are satisfied, by the production of a foreign certificate of survey attested by a British consular officer at the port of survey, that such ship has been officially surveyed at a foreign port, and are satisfied that the requirements of the said Acts, or any of them, are proved by such survey to have been substantially complied with, the Board may, if they think fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give or direct one of their officers to give a certificate, which shall have the same effect as if given upon survey under the said Acts or any of them: Provided that Her Majesty may by Order in Council direct that this section shall not apply in the case of an official survey at any foreign port at which it appears to Her Majesty that corresponding provisions are not extended to British ships.

Power to modify Passengers Acts as to food, space, and accommodation in emigrant ships.

20. IT shall be lawful for the Board of Trade, if satisfied that the food, space, accommodation, or any other particular or thing provided in an emigrant ship for any class of passengers is superior to the food, space, accommodation, or other particular or thing required by the Passengers Act, 1855, and the Acts amending the same, to exempt such ship from any of the requirements of those Acts with respect to food, space, or accommodation, or other particular or thing, in such manner and upon such conditions as the Board of Trade may think fit.

Provision of signals of distress, inextinguishable lights, and life buoys in passenger steamers and emigrant ships.

21. EVERY sea-going passenger steamer and every emigrant ship shall be provided to the satisfaction of the Board of Trade—

(1) with means for making the signals of distress at night specified in the first schedule to "The Merchant Shipping Act, 1873," or in any rules substituted therefor, including means of making flames on the ship which are inextinguishable in water, or such other means of making signals of distress as the Board of Trade may previously approve; and

(2) with a proper supply of lights inextinguishable in water and fitted for attachment to life buoys.

If any such steamer or ship goes to sea from any port of the United

Kingdom without being so provided as required by this section, for each default in any of the above requisites the owner shall, if he appears to be in fault, incur a penalty not exceeding one hundred pounds, and the master shall, if he appears to be in fault, incur a penalty not exceeding fifty pounds.

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Deck Cargoes.

Space occupied by deck cargo to be liable to dues.

23. If any ship, British or foreign, other than home trade ships as defined by the Merchant Shipping Act, 1854, carries as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, timber, stores, or other goods, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by such goods at the time at which such dues become payable.

The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines inclosing a rectangular space sufficient to include the goods.

The tonnage of such space shall be ascertained by an officer of the Board of Trade or of Customs, in manner directed by sub-section four of section twenty-one of the Merchant Shipping Act, 1854, and when so ascertained shall be entered by him in the ship's official log book, and also in a memorandum which he shall deliver to the master, and the master shall, when the said dues are demanded, produce such memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.

Penalty for carrying deckloads of timber in winter.

24. After the first day of November one thousand eight hundred and seventy-six, if a ship, British or foreign, arrives between the last day of October and the sixteenth day of April in any year at any port in the United Kingdom from any port out of the United Kingdom, carrying as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, any wood goods coming within the following descriptions; that is to say,

(*a*) any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or

(*b*) any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use; or

(*c*) any deals, battens, or other light wood goods of any description to a height exceeding three feet above the deck;

the master of the ship, and also the owner, if he is privy to the offence, shall

be liable to a penalty not exceeding five pounds for every hundred cubic feet of wood goods carried in contravention of this section, and such penalty may be recovered by action or on indictment or to an amount not exceeding one hundred pounds (whatever may be the maximum penalty recoverable) on summary conviction:

Provided that a master or owner shall not be liable to any penalty under this section—

(1) in respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or

(2) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or

(3) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the Uuited Kingdom, and by reason of an exceptionally favourable voyage arrived before that day.

Provided further, that nothing in this section shall affect any ship not bound to any port in the United Kingdom which comes into any port of the United Kingdom under stress of weather, or for repairs, or for any other purpose than the delivery of her cargo.

Deck and Load Lines.

Marking of deck-lines.

25. EVERY British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasures yachts) shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck plank next the waterway at the place of marking.

The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of load-line on foreign-going British ships.

26. With respect to the marking of a load-line on British ships the following provisions shall have effect:

(1) The owner of every British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall, before entering his ship outwards from any port in the United Kingdom upon any voyage for which he is required so to enter her, or, if that is not practicable, as soon after as may be, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

(2) The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship for that voyage:

(3) He shall also, upon so entering her, insert in the form of entry delivered to the collector or other principal officer of Customs a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre:

(4) If default is made in delivering this statement in the case of any ship, any officer of Customs may refuse to enter the ship outwards:

(5) The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no superintendent of any mercantile marine office shall proceed with the engagement of the crew until this entry is made:

(6) The master of the ship shall also enter a copy of this statement in the official log book:

(7) When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.

Marking of load-line in case of coasting vessels.

27. With respect to the marking of a load-line on British ships employed in the coasting trade, the following provisions shall have effect:

(1) The owner of every British ship employed in the coasting trade on the coasts of the United Kingdom (except ships under eighty tons register employed solely in that trade) shall, before proceeding to sea from any port, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

(2) The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship, until notice is given of an alteration:

(3) He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the collector or other principal officer of Customs of the port of registry of the ship a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre:

(4) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs of the port of registry of the ship notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines:

(5) If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the owner shall be liable to a penalty not exceeding one hundred pounds:

(6) When a ship has been marked as by this section required, she shall be kept so marked until notice is given of an alteration.

Penalty for offences in relation to marks on ships.

28. ANY owner or master of a British ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, or who allows the ship to be so loaded as to submerge in salt water the centre of the disc, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds.

If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

Investigations into Shipping Casualties.

Appointment, duties and powers of wreck commissioners for investigating shipping casualties.

29. FOR the purpose of rendering investigations into shipping casualties more speedy and effectual it shall be lawful for the Lord High Chancellor of Great Britain to appoint from time to time some fit person or persons to be a wreck commissioner or wreck commissioners for the United Kingdom, so that there shall not be more than three such commissioners at any one time, and to remove any such wreck commissioner; and in case it shall become

necessary to appoint a wreck commissioner in Ireland the Lord Chancellor of Ireland shall have the appointment and the power of removal of such wreck commissioner.

It shall be the duty of a wreck commissioner, at the request of the Board of Trade, to hold any formal investigation into a loss, abandonment, damage or casualty (in this Act called a shipping casualty) under the eighth part of the Merchant Shipping Act, 1854, and for that purpose he shall have the same jurisdiction and powers as are thereby conferred on two justices, and all the provisions of the Merchant Shipping Acts, 1854 to 1876, with respect to investigations conducted under the eighth part of the Merchant Shipping Act, 1854, shall apply to investigations held by a wreck commissioner.

Assessors and rules of procedure on formal investigations into shipping casualties.

30. THE wreck commissioner, justices, or other authority holding a formal investigation into a shipping casualty shall hold the same with the assistance of an assessor or assessors of nautical engineering or other special skill or knowledge, to be appointed by the commissioner, justices, or authority out of a list of persons for the time being approved for the purpose by a secretary of state.

The commissioner, justices, or authority, when of opinion that the investigation is likely to involve the cancellation or suspension of the certificate of a master or mate, shall, where practicable, appoint a person having experience in the merchant service to be one of the assessors.

Each assessor shall either sign the report made on the investigation, or report to the Board of Trade his reasons for his dissent therefrom.

The Lord High Chancellor of Great Britain may from time to time, with the consent of the Treasury so far as relates to fees, make, and when made revoke, alter, and add to general rules for carrying into effect the enactments relating to formal investigations into shipping casualties, and in particular with respect to the summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to such parties and persons or to persons affected, and the amount and application of fees.

All such rules, while in force, shall have effect as if enacted in this Act.

Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person that person shall have an opportunity of making a defence.

Power for wreck commissioner to institute examination with respect to ships in distress under 17 & 18 Vict. c. 104. s. 448.

31. A WRECK commissioner may, at the request of the Board of Trade, by himself, or by some deputy approved by the Board of Trade, institute the same examination as a receiver of wreck under section four hundred and forty-eight of the Merchant Shipping Act, 1854, and shall for that purpose have the powers by that section conferred on a receiver of wreck.

Power to hold inquiries or formal investigations as to stranded and missing ships.

32. In the following cases—

(1) whenever any ship on or near the coasts of the United Kingdom or any British ship elsewhere has been stranded or damaged, and any witness is found at any place in the United Kingdom, or

(2) whenever a British ship has been lost or is supposed to have been lost, and any evidence can be obtained in the United Kingdom as to the circumstances under which she proceeded to sea or was last heard of,

the Board of Trade (without prejudice to any other powers) may, if they think fit, cause an inquiry to be made or formal investigation to be held, and all the provisions of the Merchant Shipping Acts, 1854 to 1876, shall apply to any such inquiry or investigation as if it had been made or held under the eighth part of the Merchant Shipping Act, 1854.

Place of investigation.

33. A FORMAL investigation into a shipping casualty may be held at any place appointed in that behalf by the Board of Trade, and all enactments relating to the authority holding the investigation shall, for the purpose of the investigation, have effect as if the place so appointed were a place appointed for the exercise of the ordinary jurisdiction of that authority.

Miscellaneous.

Enforcing detention of ship.

34. WHERE under the Merchant Shipping Acts, 1854 to 1876, or any of them, a ship is authorized or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Board of Trade or Customs, or any British consular officer may detain the ship, and if the ship after such detention or after service on the master of any notice of or order for such detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall forfeit and pay to Her Majesty a penalty not exceeding one hundred pounds.

Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorized to detain the ship, or any surveyor or officer of the Board of Trade or Customs, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also a penalty not exceeding one hundred pounds, or, if the offence is not prosecuted in a summary manner, not exceeding ten pounds for every day until the officer or surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.

Service of

35. WHERE any order, notice, statement, or document requires, for the

purpose of any provision of this Act, to be served on the master of a ship, the same shall be served, where there is no master, and the ship is in the United Kingdom, on the managing owner of the ship, or if there is no managing owner, on some agent of the owner residing in the United Kingdom, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship. Order on master, &c.

Any such order, notice, statement, or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or in the case of a master by leaving it for him on board the ship with the person being or appearing to be in command or charge of such ship.

Any person who obstructs the service of any order, notice, statement, or document on the master of a ship shall incur a penalty not exceeding ten pounds, and if the owner or master of the ship is party or privy to such obstruction he shall be guilty of a misdemeanor.

Ship's managing owner or manager to be registered.

36. THE name and address of the managing owner for the time being of every British ship registered at any port or place in the United Kingdom shall be registered at the custom house of the ship's port of registry.

Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of the Merchant Shipping Acts, 1854 to 1876, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

If default is made in complying with this section the owner shall be liable, or if there be more owners than one each owner shall be liable in proportion to his interest in the ship, to a penalty not exceeding in the whole one hundred pounds each time the ship leaves any port in the United Kingdom.

Power for Her Majesty, by Order in Council to apply certain provisions of Merchant Shipping Acts to foreign ships.

37. WHENEVER it has been made to appear to Her Majesty that the government of any foreign state is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1876, or of any Act hereafter to be passed amending the same, shall apply to the ships of such state, Her Majesty may by Order in Council declare that such of the said provisions as are in such order specified shall (subject to the limitations, if any, contained in the order) apply, and thereupon, so long as the order remains in force, such provisions shall apply (subject to the said limitations) to the ships of such state, and to the owners, masters, seamen, and apprentices of such ships, when not locally within the jurisdiction of such state, in the same manner in all respects as if such ships were British ships.

Provision as

38. WHERE Her Majesty has power under the Merchant Shipping Act,

to Order in Council.

1854, or any Act passed or hereafter to be passed amending the same, to make an Order in Council, it shall be lawful for Her Majesty from time to time to make such Order in Council, and by Order in Council to revoke, alter, or add to any order so made.

Every such Order in Council shall be published in the London Gazette, and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

Upon the publication of any such order in the London Gazette, the order shall, after the date of such publication, or any later date mentioned in the order, take effect as if were enacted by Parliament.

Fees, salaries, and costs.

39. On and after the first day of January one thousand eight hundred and seventy-seven all fees payable in respect of the survey or measurement of ships under the Merchant Shipping Acts, 1854 to 1876, or in respect of any services performed by any person employed under the authority of the Passengers Act, 1855, shall continue to be paid to the superintendent of a mercantile marine office at such times and in such manner as the Board of Trade from time to time direct, but shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

On and after the same day the salaries of all surveyors appointed under the Merchant Shipping Acts, 1854 to 1876, and so much of the expenses connected with the survey and measurement of ships under those Acts, and of the salaries and expenses of persons employed under the Passengers Act, 1855, as has heretofore been paid out of the mercantile marine fund, shall be paid out of moneys provided by Parliament, and the Treasury shall have the like control over such salaries and expenses as has heretofore been vested in the Board of Trade.

There may be paid out of moneys provided by Parliament, to any wreck commissioner, judge of a court of survey, assessor, registrar of a court of survey, detaining officer, scientific referee, and other officer or person appointed under this Act, such salary or remuneration (if any) as the Treasury from time to time direct.

There may be paid out of moneys provided by Parliament all costs and compensation payable by the Board of Trade in pursuance of this Act.

Legal proceedings in case of offences.

40. For the purpose of punishment, jurisdiction, and legal proceedings an offence under this Act shall be deemed to be an offence under the Merchant Shipping Act, 1854.[a]

* * * * * * * * *

[a] Sections 41, 42, 43 are omitted as applying, respectively, only to Scotland, Ireland and the Isle of Man.

Saving for colonial inland waters.

44. NOTHING in this Act shall apply to any vessel employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession, and the provisions of this Act relating to deck cargo shall not apply to deck cargo carried by a ship while engaged in the coasting trade of any British possession.

Repeal.

Repeal of Acts.

45. ON and from the commencement of this Act the Acts specified in the first part of the schedule hereto, and on and from the first day of January one thousand eight hundred and seventy-seven the Acts specified in the second part of the schedule hereto, shall be repealed to the extent in the third column of that schedule mentioned: Provided that any officer appointed in pursuance of any such enactment shall be deemed to have been appointed under this Act, and any Order in Council made in pursuance of any such enactment shall be deemed to have been made under this Act, and this repeal shall not affect—

(1) anything done or suffered under any enactment hereby repealed; nor

(2) any right, power, duty, obligation, or liability acquired, imposed, accrued, or incurred under any enactment hereby repealed; nor

(3) any penalty or punishment incurred in respect of any offence against any enactment hereby repealed; nor

(4) any legal proceeding in respect of any such right, power, duty, obligation, liability, penalty, or punishment, and any such legal proceeding may be carried on as if this Act had not passed.

SCHEDULE.

PART I.

ENACTMENTS REPEALED FROM COMMENCEMENT OF ACT.

Session and chapter.	Title.	Extent of repeal.
17 & 18 Vict. c. 104. ...	The Merchant Shipping Act, 1854.	Sub-section (4) of section three hundred and one; so much of section three hundred and eighteen as requires the owner of a ship to transmit the declarations therein mentioned; section four hundred and thirty-four; and section four hundred and thirty-seven from "and in case he so requires" inclusive to the end of section; and section four hundred and forty-nine.

ENACTMENTS REPEALED FROM COMMENCEMENT OF ACT—*continued.*

Sssion and chapter.	Title.	Extent of repeal.
34 & 35 Vict. c. 110. ...	The Merchant Shipping Act, 1871.	Section eleven.
36 & 37 Vict. c. 85. ...	The Merchant Shipping Act, 1873.	Sections eleven, twelve, thirteen, and fourteen.
38 & 39 Vict. c. 88. ...	The Merchant Shipping Act, 1875.	The whole Act.

PART II.

ENACTMENTS REPEALED FROM 1ST JANUARY 1877.

Session and chapter.	Title.	Extent of repeal.
17 & 18 Vict. c. 104. ...	The Merchant Shipping Act, 1854.	Sub-section (2) of section four hundred and eighteen.
35 & 36 Vict. c. 73. ...	The Merchant Shipping Act, 1872.	Section fourteen.

40 & 41 VICTORIA. A. D. 1877.

CHAPTER LI.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*14th August 1877.*]

WHEREAS the exigencies of the public service in India require that the Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to the Secretary of State in Council of India to raise any sum not exceeding 5,000,000*l.*

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times after the passing of this Act, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions of pounds sterling, of which two millions five hundred thousand pounds sterling may be raised by the creation and issue of capital stock bearing interest, or annuities, bonds, debentures, or

bills, or partly by one of such modes and partly by another or others, and the whole or any portion of the remaining two millions five hundred thousand pounds sterling may be raised by the creation and issue of bonds, debentures, or bills, but not by the creation and issue of capital stock bearing interest, or of annuities.

Bonds may be issued under the hands of two members of the Council and countersigned by Secretary of State.

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Debentures may be issued.

3. ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England.

Debentures transferable by delivery.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures; and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery.

Coupons by delivery.

Bills may be issued.

6. ALL bills issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

Description, currency of, and interest on bills.

7. A BILL issued under the authority of this Act shall be a bill for the payment of the principal sum named therein at the date therein mentioned, so that the date be not more than twelve months from the date of the bill; and the principal sum secured by such bill shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England. Interest shall be payable in respect of such bill at such rate and in such manner as the Secretary of state in Council may determine.

Capital stock and annuities may be created and issued.

8. ANY capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate per centum per annum, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

9. IN case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Annuities deemed personal estate.

10. ALL annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of London, or otherwise.

The whole amount charged not to exceed 5,000,000*l*.

11. THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions.

Power to raise money for payment of principal money.

12. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid, and the total amount raised under

this section by the creation and issue of capital stock bearing interest or of annuities shall not at any one time exceed two millions five hundred thousand pounds sterling.

Securities,&c. to be charged on revenues of India.

13. ALL bonds, debentures, and bills to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.

14. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures and bills to be punishable as forgery of East India bonds.

15. ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bill issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be prepared half-yearly of moneys raised on loan, and presented to Parliament.

16. PROVIDED always, that, at the end of each of the half-years ending on the thirty-first day of March and the thirtieth day of September in every year, the Secretary of State in Council shall prepare or cause to be prepared a return of all loans raised in England under the provisions of this Act or of any other Acts, and of loans raised in India chargeable on the revenues of India, outstanding at the commencement of each half year, with the rates of interest and total amount payable thereon, and the date of the termination of each loan, the debt incurred during the half year, the moneys raised thereby during the half year, the loans paid off or discharged during the half year, and the loans outstanding at the close of the half year, stating, so far as the public convenience with allow, the purpose or service for which moneys have been raised during the half year; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of India, as provided for in the Act twenty-first and twenty-second Victoria, chapter three, with rates and amount of interest, showing the changes which have taken place in each half year, in respect to the debts incurred and paid off or discharged; that such returns shall be presented to both Houses of Parliament, as respects the return of loans

and liabilities in England, within fifteen days after the expiration of the said half-yearly periods, and within three months after the expiration of each half year, as respects the return of loans and liabilities in India, if Parliament be then sitting, or if not sitting, then within one week after Parliament shall be next assembled; and the various conditions in respect to terms, prices, dates of payment, and rates of interest on which bills have been issued during the half year under the authority of sections six and seven of this Act, shall be shown in the return in a form admitting of a comparison with previous years.[a]

Saving powers of the Secretary of State in Council.

17. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

Stock created hereunder to be deemed East India stock.

18. ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide; and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding.

Section 3. &c. of 33 & 34 Vict. c. 93. extended to capital stock created under this Act.

19. THE provisions contained in the third section of the Act of the thirty-third and thirty-fourth Victoria, chapter ninety-three, and all other enactments in the said Act relating to or affecting such provisions, shall be extended and be applicable to any capital stock created under this Act.

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41 & 42 VICTORIA. A. D. 1878.

CHAPTER LXI.

An Act to remove doubts as to the validity of certain Marriages solemnized in the Islands of Fiji prior to their erection into a British Colony.

[*16th August 1878.*]

WHEREAS, before the erection of the islands of Fiji into a British colony, certain marriages of British subjects were solemnized by ministers of the Christian religion in accordance with the custom then in use, such marriages not having been solemnized according to the provisions of the Act of the session of the twelfth and thirteenth years of the reign of Her Majesty, chapter sixty-eight, intituled "An Act for facilitating the marriages of British subjects in foreign countries:"

And whereas it is expedient, under the circumstances aforesaid, to remove

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[a] Repealed, so far as regards the preparation and presentation to Parliament half yearly of a return of all stocks, loans, debts, and liabilities chargable on the revenues of India, by 42 & 43 Vic., c. 60, s. 16.

all doubts touching the validity of the marriages so solemnized, and to render the same valid:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited for all purposes as the Fiji Marriage Act, 1878.

Marriages before 10th October 1874 declared valid.

2. ALL marriages (both or one of the parties thereto being subjects or a subject of this realm) solemnized in the islands now constituting the colony of Fiji, before the tenth day of October one thousand eight hundred and seventy-four, by any minister of religion of any denomination of Christians duly appointed or ordained, or reputed to be duly appointed or ordained, shall be as valid in law as if the same had been solemnized within Her Majesty's dominions with a due observance of all forms required by law.

Certificate of such marriage good in law.

3. A CERTIFICATE of the marriage, purporting to be signed by any minister of religion as aforesaid who solemnized the same, or a certified copy of such certificate, shall be receivable by all courts of law as evidence of such marriage at the date set forth in the said certificate.

Such marriages may be registered, and procedure.

4. ANY such marriage may be registered by producing the certificate of the minister of religion aforesaid to the registrar general of the colony of Fiji at any time within eighteen months after the passing of this Act; and the said registrar general shall register the same, and shall add the date when solemnized, together with the words "valid from the date of solemnization under the Fiji Marriage Act, 1878;" and an extract from the register, signed by the registrar general, shall be received in all courts of law as sufficient evidence of the marriage as of the date set forth in the entry made under this section by the registrar general: Provided that any entry in the said register, and any extract therefrom, made prior to the proclamation of this Act in the colony of Fiji in pursuance of an Ordinance of the said colony, the short title of which was the Fiji Marriages Validity Ordinance, 1877, shall be as valid in all respects as though the same had been made in pursuance of this Act.

Date of operation of Act.

5. THIS Act shall come into operation from the date of its proclamation within the colony of Fiji.

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41 & 42 VICTORIA. A. D. 1878.

CHAPTER LXVII.

An Act for extending and amending the Foreign Jurisdiction Acts.

[*16th August 1878.*]

BE it enacted by the Queen's most excellent Majesty, by and with the

advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Construction of Act, and short titles. 6 & 7 Vict. c. 94. 28 & 29 Vict. c. 116. 29 & 30 Vict. c. 87. 38 & 39 Vict. c. 85.

1.—(1.) This Act shall be construed as one with the Foreign Jurisdiction Acts, 1843 to 1875, and those Acts together with this Act may be cited as the Foreign Jurisdiction Acts, 1843 to 1878, and this Act may be cited separately as the Foreign Jurisdiction Act, 1878.

(2.) The Acts whereof the titles are given in the first schedule to this Act may be cited by the respective short titles given in that schedule.

Repeal of enactments in second schedule.

2. The Acts mentioned in the second schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned: Provided that,—

(1) any Order in Council, commission, or instructions made or issued in pursuance of any enactment hereby repealed, and in force at the passing of this Act, shall continue in force until altered or revoked by Her Majesty; and

(2) this repeal shall not affect anything done or suffered, or any right accrued or liability incurred before the passing of this Act; and

(3) any action, suit, or other proceeding affected by any enactment hereby repealed may be carried on in like manner as if this Act had not been passed.

Power for Queen in Council to extend enactments in first schedule. 6 & 7 Vict. c. 94.

3.—(1.) It shall be lawful for Her Majesty the Queen in Council, if it seems fit, from time to time, by order, to direct that all or any of the enactments described in the first schedule to this Act, or any enactments for the time being in force amending or substituted for the same, shall extend, with or without any exceptions, adaptations, or modifications in the order mentioned, to any country or place to which for the time being the Foreign Jurisdiction Act, 1843, applies.

(2.) Thereupon those enactments shall operate as if that country or place were one of Her Majesty's colonies, and as if Her Majesty in Council were the legislature of that colony.

Validity of orders made under Foreign Jurisdiction Acts 6 & 7 Vict. c. 94. 28 & 29 Vict. c. 116. 29 & 30 Vict. c. 87. 38 & 39 Vict. c. 85.

4. An Order in Council purporting to be made in pursuance of the Foreign Jurisdiction Acts, 1843 to 1878, or any of them, shall be deemed a colonial law within the Colonial Laws Validity Act, 1865, that is to say, the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter sixty-three, "to remove doubts as to the validity of colonial laws;" and any country or place to which any such order extends shall be deemed a colony within that Act.

Extension of

5. In any country or place out of Her Majesty's dominions, in or to

which any of Her Majesty's subjects are for the time being resident or resorting, and which is not subject to any government from whom Her Majesty might obtain power and jurisdiction by treaty or any of the other means mentioned in the Foreign Jurisdiction Act, 1843, Her Majesty shall by virtue of this Act have power and jurisdiction over Her Majesty's subjects for the time being resident in or resorting to that country or place, and the same shall be deemed power and jurisdiction had by Her Majesty therein within the Foreign Jurisdiction Act, 1843.

Foreign Jurisdiction Acts over Her Majesty's subjects residing in countries without regular governments. 6 & 7 Vict. c. 94.

6 & 7 Vict. c. 94.

6. It shall be lawful for Her Majesty the Queen in Council, from time to time, by order, to make, for the government of Her Majesty's subjects being in any vessel at a distance of not more than one hundred miles from the coast of China or of Japan, any law that to Her Majesty in Council may seem meet, as fully and effectually as any such law might be made by Her Majesty in Council for the government of Her Majesty's subjects being in China or in Japan.

Jurisdiction over ships in Eastern seas.

7. Every Order in Council made in pursuance of the Foreign Jurisdiction Acts, 1843 to 1878, or any of them, shall be laid before both Houses of Parliament forthwith after it is made if Parliament be then in session, and if not, forthwith after the commencement of the then next session of Parliament.

Orders in Council to be laid before Parliament. 6 & 7 Vict. c. 94. 28 & 29 Vict. c. 116. 29 & 30 Vict. c. 87. 38 & 39 Vict. c. 85.

8.—(1.) An action, suit, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of the Foreign Jurisdiction Acts, 1843 to 1878, or any of them, or of any Order in Council made under the same, or of any such power or jurisdiction of Her Majesty as is mentioned in the said Acts or any of them, or in respect of any alleged neglect or default in the execution of the said Acts or any of them, or of any such Order in Council, power, or jurisdiction as aforesaid, shall not lie or be instituted—

Provisions for protection of persons acting under Foreign Jurisdiction Acts. 6 & 7 Vict. c. 94. 28 & 29 Vict. c. 116. 29 & 30 Vict. c. 87. 38 & 39 Vict. c. 85.

(*a*) in any court within Her Majesty's dominions, unless it is commenced within six months next after the act, neglect, or default complained of, or in case of a continuance of injury or damage, within six months next after the ceasing thereof, or where the cause of action arose out of Her Majesty's dominions, within six months after the parties to such action, suit, prosecution, or proceeding have been within the jurisdiction of the court in which the same is instituted;

(*b*) nor in any of Her Majesty's courts without Her Majesty's dominions, unless the cause of action arose within the jurisdiction of that court, and the action is commenced within six months next after the act,

neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof.

(2.) In any such action, suit, or proceeding, tender of amends before the same was commenced may be pleaded in lieu of or in addition to any other plea. If the action, suit, or proceeding was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action, suit, or proceeding.

6 & 7 Vict. c. 94. 28 & 29 Vict. c. 116. 29 & 30 Vict. c. 87. 38 & 39 Vict. c. 85.

(3.) So far as regards any action, suit, prosecution, or proceeding instituted after the passing of this Act, the provisions of this section shall supersede any provision for a like purpose which is contained in an Order in Council under the Foreign Jurisdiction Acts, 1843 to 1875, and is in force at the passing of this Act, and such provision shall cease to have any effect.

SCHEDULES.

Sections 1, 3.

FIRST SCHEDULE.

Enactments referred to.

Session and chapter.	Title.	Short title.
6 & 7 Vict. c. 34. ...	An Act for the better apprehension of certain offenders.	Fugitive Offenders Act, 1843.
12 & 13 Vict. c. 96. ...	An Act to provide for the prosecution and trial in Her Majesty's colonies of offences committed within the jurisdiction of the Admiralty.	Admiralty Offences Colonial Act, 1849.
14 & 15 Vict. c. 99. ... Sections seven and eleven.	An Act to amend the law of evidence ...	Evidence Act, 1851.
17 & 18 Vict. c. 104. Part X	The Merchant Shipping Act, 1854.	

Session and chapter.	Title.	Short title.
19 & 20 Vict. c. 113...	An Act to provide for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals.	Foreign Tribunals Evidence Act, 1856.
22 Vict. c. 20. ...	An Act to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's dominions, in places out of the jurisdiction of such tribunals.	Evidence by Commission Act, 1859.
22 & 23 Vict. c. 63. ...	An Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's dominions, when pleaded in the courts of another part thereof.	British Law Ascertainment Act, 1859.
23 & 24 Vict. c. 122...	An Act to enable the legislatures of Her Majesty's possessions abroad to make enactments similar to the enactment of the Act ninth George the Fourth, chapter thirty-one, section eight.	Admiralty Offences Colonial Act, 1860.
24 & 25 Vict. c. 11. ...	An Act to afford facilities for the better ascertainment of the law of foreign countries when pleaded in courts within Her Majesty's dominions.	Foreign Law Ascertainment Act, 1861.
30 & 31 Vict. c. 124... Section eleven.	The Merchant Shipping Act, 1867.	
37 & 38 Vict. c. 94. ... Section fifty-one.	The Conveyancing (Scotland) Act, 1874.	

SECOND SCHEDULE.

Section 2.

Enactments repealed.

Session and chapter.	Title.	Extent of repeal.
6 & 7 Vict. c. 80. ...	An Act for the better government of Her Majesty's subjects resorting to China.	The whole Act.
6 & 7 Vict. c. 94. ...	The Foreign Jurisdiction Act, 1843 ...	Section seven.

41 & 42 VICTORIA. A. D. 1878.

CHAPTER LXXIII.

An Act to regulate the Law relating to the Trial of Offences committed on the Sea within a certain distance of the Coasts of Her Majesty's Dominions.

[*16th August 1878.*]

WHEREAS the rightful jurisdiction of Her Majesty, her heirs and successors, extends and has always extended over the open seas adjacent to the coasts of the United Kingdom and of all other parts of Her Majesty's dominions to such a distance as is necessary for the defence and security of such dominions:

And whereas it is expedient that all offences committed on the open sea within a certain distance of the coasts of the United Kingdom and of all other parts of Her Majesty's dominions, by whomsoever committed, should be dealt with according to law:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the Territorial Waters Jurisdiction Act, 1878.

Amendment of the law as to the jurisdiction of the Admiral.

2. AN offence committed by a person, whether he is or is not a subject of Her Majesty, on the open sea within the territorial waters of Her Majesty's dominions, is an offence within the jurisdiction of the Admiral, although it may have been committed on board or by means of a foreign ship, and the person who committed such offence may be arrested, tried, and punished accordingly.

Restriction on institution of proceedings for punishment of offence.

3. PROCEEDINGS for the trial and punishment of a person who is not a subject of Her Majesty, and who is charged with any such offence as is declared by this Act to be within the jurisdiction of the Admiral, shall not be instituted in any court of the United Kingdom, except with the consent of one of Her Majesty's Principal Secretaries of State, and on his certificate that the institution of such proceedings is in his opinion expedient, and shall not be instituted in any of the dominions of Her Majesty out of the United Kingdom, except with the leave of the Governor of the part of the dominions in which such proceedings are proposed to be instituted, and on his certificate that it is expedient that such proceedings should be instituted.

Provisions as to procedure.

4. ON the trial of any person who is not a subject of Her Majesty for an offence declared by this Act to be within the jurisdiction of the Admiral, it

shall not be necessary to aver in any indictment or information on such trial that such consent or certificate of the Secretary of State or Governor as is required by this Act has been given, and the fact of the same having been given shall be presumed unless disputed by the defendant at the trial; and the production of a document purporting to be signed by one of Her Majesty' Principal Secretaries of State as respects the United Kingdom, and by the Governor as respects any other part of Her Majesty's dominions, and containing such consent and certificate, shall be sufficient evidence for all the purposes of this Act of the consent and certificate required by this Act.

Proceedings before a justice of the peace or other magistrate previous to the committal of an offender for trial or to the determination of the justice or magistrate that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the said consent and certificate under this Act.

Saving as to jurisdiction.

5. NOTHING in this Act contained shall be construed to be in derogation of any rightful jurisdiction of Her Majesty, her heirs or successors, under the law of nations, or to affect or prejudice any jurisdiction conferred by Act of Parliament or now by law existing in relation to foreign ships or in relation to persons on board such ships.

Saving as to piracy.

6. THIS Act shall not prejudice or affect the trial in manner heretofore in use of any act of piracy as defined by the law of nations, or affect or prejudice any law relating thereto; and where any act of piracy as defined by the law of nations is also any such offence as is declared by this Act to be within the jurisdiction of the Admiral, such offence may be tried in pursuance of this Act, or in pursuance of any other Act of Parliament, law, or custom relating thereto.

Definitions.

7. IN this Act, unless there is something inconsistent in the context, the following expressions shall respectively have the meanings hereinafter assigned to them; that is to say,

"Jurisdiction of the Admiral:"

"The jurisdiction of the Admiral," as used in this Act, includes the jurisdiction of the Admiralty of England and Ireland, or either of such jurisdictions as used in any Act of Parliament; and for the purpose of arresting any person charged with an offence declared by this Act to be within the jurisdiction of the Admiral, the territorial waters adjacent to the United Kingdom, or any other part of Her Majesty's dominions, shall be deemed to be within the jurisdiction of any judge, magistrate, or officer having power within such United Kingdom, or other part of Her Majesty's dominions, to issue warrants for arresting or to arrest persons charged with offences committed within the jurisdiction of such judge, magistrate, or officer:

"United Kingdom;" "United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands:

"Territorial waters of Her Majesty's dominions:" "The territorial waters of Her Majesty's dominions," in reference to the sea, means such part of the sea adjacent to the coast of the United Kingdom, or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty; and for the purpose of any offence declared by this Act to be within the jurisdiction of the Admiral, any part of the open sea within one marine league of the coast measured from low-water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions:

"Governor:" "Governor," as respects India, means the Governor General or the Governor of any presidency; and where a British possession consists of several constituent colonies, means the Governor General of the whole possession or the Governor of any of the constituent colonies; and as respects any other British possession, means the officer for the time being administering the government of such possession; also any person acting for or in the capacity of Governor shall be included under the term "Governor:"

"Offence:" "Offence" as used in this Act means an act, neglect, or default of such a description as would, if committed within the body of a county in England, be punishable on indictment according to the law of England for the time being in force:

"Ship:" "Ship" includes every description of ship, boat, or other floating craft:

"Foreign ship." "Foreign ship" means any ship which is not a British ship.

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42 VICTORIA. A. D. 1879

Chapter VIII.

An Act to make further provision for the Registration of Deaths, Marriages, and Births occurring out of the United Kingdom among officers and soldiers of Her Majesty's Forces, and their families.

[*23rd May 1879.*]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 1. This Act may be cited as the Registration of Births, Deaths, and Marriages (Army) Act, 1879.

Transmission to registrar of registers of births, deaths, and marriages of army kept in pursuance of Her Majesty's regulations.

2. If Her Majesty is pleased from time to time to make regulations respecting the registration of deaths and births occurring and marriages solemnized out of the United Kingdom among officers and soldiers of Her Majesty's land forces and their families or any of them, the registers kept from time to time in pursuance of the said regulations shall, in manner provided by the regulations for the time being in force, be authenticated and transmitted to the registrar general of births and deaths in England.

Where it appears from any such register that an officer or soldier whose death or marriage is entered therein, or to whose family a person whose death, marriage, or birth is entered therein belonged, was a Scotch or Irish subject of Her Majesty, the registrar general of births and deaths in England shall, as soon as may be after receiving the register, send a certified copy of so much thereof as relates to such death, marriage, or birth to the registrar general of births and deaths in Scotland or Ireland, as the case may require.

Every registrar general of births and deaths to whom a register or certified copy of a register is sent, in pursuance of this section, shall cause the same to be filed and preserved in or copied in a book to be kept by him for the purpose, and to be called the army register book, and such book shall be deemed to be a certified copy of the register book within the meaning of the Acts relating to the registration of births and deaths in England, Scotland, and Ireland respectively.

Provision as to existing documents evidencing deaths, marriages, and births among officers and soldiers of the army, and their families.

3. Whereas, under the directions of Her Majesty, or of one of Her Majesty's Principal Secretaries of State, or the Commander-in-Chief or other lawful authority, various documents, such as registers, muster-rolls, and pay-lists have been kept, showing the deaths and births which have occurred and the marriages which have been solemnized among officers and soldiers of Her Majesty's land forces and their families:

And whereas it is expedient to make further provision respecting the said documents: Be it therefore enacted as follows:

Where any of such documents, or any certified extracts thereof made under the direction of one of Her Majesty's Principal Secretaries of State, have either before or after the passing of this Act been transmitted to the registrar general of births and deaths in England, such documents or extracts shall be deemed to be in the legal custody of the said registrar general, and shall be admissible in evidence; and a copy of any such document or extract of, or any part thereof, if purporting to be certified to be a true copy under the seal of the register office of the registrar general, shall be admissible in evidence of such document, extract, or part.

Saving as to

4. Nothing in this Act shall apply to any deaths, marriages, or births

births, deaths, and marriages in the United Kingdom.

which occur in the United Kingdom, except where the same occurred before the commencement of this Act.

Commencement of Act.

5. THIS Act shall come into operation on the first day of July one thousand eight hundred and seventy-nine, which day is in this Act referred to as the commencement of this Act.

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42 & 43 VICTORIA. A. D. 1879.

CHAPTER XXIX.

An Act to remove doubts as to the validity of certain Marriages of British subjects on board Her Majesty's ships. [*21st July 1879.*]

WHEREAS officers commanding Her Majesty's ships on foreign stations have permitted marriages to be solemnized according to religious rites or ceremonies, or to be contracted *per verba de presenti* in the presence of such officers, in the belief that marriages were authorized by law to be so solemnized and contracted, and doubts have arisen with respect to the validity of such marriages, and it is expedient to confirm the same:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the Confirmation of Marriages on Her Majesty's Ships Act, 1879.

Confirmation of marriages of British subjects solemnized on board Her Majesty's ships.

2. ALL marriages, both of the parties being British subjects, which before the passing of this Act have been solemnized on board one of Her Majesty's vessels on a foreign station in the presence of the officer commanding such vessel, whether solemnized according to any religious rite or ceremony, or contracted *per verba de presenti*, shall be valid in like manner as if the same had been solemnized within Her Majesty's dominions with the due observance of all forms required by law.

Provided that this enactment shall not render valid any marriage which before the passing of this Act has been declared invalid by any court of competent jurisdiction in any proceeding touching such marriage, or any right dependent on the validity or invalidity thereof, or render valid any marriage where either of the parties has before the passing of this Act and during the life of the other party lawfully intermarried with any person.

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[42 & 43 Vict. Ch. 33.]

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42 & 43 VICTORIA. A. D. 1879.

CHAPTER XXXIII.

An Act to amend the Law relating to the Discipline and Regulation of the Army.

[*24th July 1879.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

Preliminary.

Short title of Act.

1. THIS Act may be cited for all purposes as the Army Discipline and Regulation Act, 1879.

Mode of bringing Act into force.

2. THIS Act shall not come into force except in pursuance of an annual Act of Parliament to be hereafter passed bringing the same into force, and shall continue in force only for such time and subject to such provisions as may be specified in such last-mentioned Act.

Division of Act.

3. THIS Act is divided into five parts, relating to the following subject-matters; that is to say,

Part I., discipline:

Part II., enlistment:

Part III., billeting and impressment of carriages:

Part IV., general provisions:

Part V., application of military law, saving provisions, and definitions.

PART I.

DISCIPLINE.

CRIMES AND PUNISHMENTS.

Offences in respect of military service.

Offences in respect of Military Service.

Offences in respect of military service.

4. EVERY person subject to military law who commits any of the following offences; that is to say,

Offences in relation to the enemy punishable with death.

(1) shamefully abandons or delivers up any garrison, place, post, or guard, or uses any means to compel or induce any governor, commanding officer, or other person shamefully to abandon or deliver up any garrison, place, post, or guard, which it was the duty of such governor, officer, or person to defend; or (1.) Mutiny Act 15. Art. of War 52.

(2.) Art. of War, 56.

(3.) Mutiny Act, 15. Art. of War, 51, 59.

(4.) Art. of War, 51.

(5.) See Art. of War, 171.

(7.) Mutiny Act, 15. Art. of War, 52.

Offences in respect of military service.

(2) shamefully casts away his arms, ammunition, or tools in the presence of the enemy; or

(3) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy; or

(4) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner; or

(5) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy; or

(6) knowingly does when on active service any act calculated to imperil the success of Her Majesty's forces or any part thereof; or

(7) misbehaves or induces others to misbehave before the enemy in such manner as to show cowardice,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Act mentioned.

Offences in relation to the enemy not punishable with death.

5. EVERY person subject to military law who on active service commits any of the following offences; that is to say,

(1.) Art. of War, 64.

(1) without orders from his superior officer leaves the ranks, in order to secure prisoners or horses, or on pretence of taking wounded men to the rear; or

(2.) Art. of War, 103.

(2) without orders from his superior officer wilfully destroys or damages any property; or

(3.) Art. of War, 65, and see 171.

(3) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner fails to rejoin Her Majesty's service when able to rejoin the same; or

(4.) Mutiny Act, 15. Art. of War, 51, 59.

(4) without due authority either holds correspondence with, or gives intelligence to, or sends a flag of truce to the enemy; or

(5.) Art. of War, 51.

(5) by word of mouth or in writing spreads reports calculated to create unnecessary alarm or despondency; or

(6.) Art. of War, 62.

(6) in action, or previously to going into action, uses words calculated to create alarm or despondency,

shall on conviction by court-martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.

Offences punishable more severely on active service than at other times.

6. EVERY person subject to militay law who commits any of the following offences; that is to say,

(1.) Art. of War, 53.

(1) leaves his commanding officer to go in search of plunder; or

(2.) Art. of War, 65.

(2) without orders from his superior officer, leaves his guard, picquet, patrol, or post; or

Offences in respect of military service.

(3) forces a safeguard; or (3) Art. of War, 58.

(4) forces or strikes a sentry; or

(5) impedes the provost marshal or any officer legally exercising authority under or on behalf of the provost marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal or any such officer; or (5.) Art. of War, 68.

(6) does violence to any person bringing provisions or supplies to the forces; or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving; or (6.) Art. of War, 58, 103. See Mutiny Act, 12.

(7) breaks into any house or other place in search of plunder; or (7.) Art. of War, 58.

(8) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasions false alarms in action, on the march, in the field, or elsewhere; or (8.) Art. of War, 55.

(9) treacherously makes known the parole or watchword to any person not entitled to receive it; or, without good and sufficient cause, gives a parole or watchword different from what he received; or (9.) Art. of War, 54, 60.

(10) irregularly detains or appropriates to his own corps or detachment any provisions or supplies proceeding to the forces, contrary to any orders issued in that respect; or (10.) Art of War, 66.

Misbehaviour of sentinel.

(11) being a sentinel, commits any of the following offences; that is to say, (11.) (*a*.) Mutiny Act, 15. Art. of War, 57.

(*a*) sleeps or is drunk on his post; or

(*b*) leaves his post before he is regularly relieved, (11.) (*b*.) Mutiny Act, 15.

shall, on conviction by court-martial,

if he commits any such offence on active service, be liable to suffer death, or such less punishment as is in this Act mentioned; and Art. of War, 57.

if he commits any such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Every person subject to military law who commits any of the following offences; (that is to say),

(12) by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, negligently occasions false alarms in action, on the march, in the field, or elsewhere; or Art. of War, 71.

(13) makes known the parole or watchword to any person not entitled to receive it; or, without good and sufficient cause, gives a parole or watchword different from what he received, Art. of War, 54, 60.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Mutiny and Insubordination.

Mutiny and insubordination.

Mutiny and sedition.

7. EVERY person subject to military law who commits any of the following offences; that is to say,

(1.) Mutiny Act, 5. Art. of War, 36.
(1) causes or conspires with any other persons to cause any mutiny or sedition in any forces belonging to Her Majesty's regular, reserve, or auxiliary forces, or navy; or

(2.) Naval Discipline Act. s. 13.
(2) endeavours to seduce any person in Her Majesty's regular, reserve, or auxiliary forces, or navy, from allegiance to Her Majesty, or to persuade any person in Her Majesty's regular, reserve, or auxiliary forces, or navy, to join in any mutiny or sedition; or

(3.) Mutiny Act, 15. Art. of War, 36.
(3) joins in, or being present does not use his utmost endeavours to suppress, any mutiny or sedition in any forces belonging to Her Majesty's regular, reserve, or auxiliary forces, or navy; or

(4.) Mutiny Act, 15. Art. of War, 36.
(4.) coming to the knowledge of any actual or intended mutiny or sedition in any forces belonging to Her Majesty's regular, reserve, or auxiliary forces, or navy, does not without delay inform his commanding officer of the same,

shall on conviction by court-martial be liable to suffer death, or such less punishment as in this Act mentioned.

Striking or threatening superior officer.

8. EVERY person subject to military law who commits any of the following offences; that is to say,

Mutiny Act, 15. Art. of War, 37.
strikes or uses or offers any violence to his superior officer, being in the execution of his office,

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Act mentioned; and

every person subject to military law who commits any of the following offences; that is to say,

Art. of War, 41.
strikes or uses or offers any violence to his superior officer, or uses threatening or insubordinate language to his superior officer,

shall on conviction by court-martial, if he commits such offence on active service, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned,

Mutiny and insubordination.

and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Disobedience to superior officer.

9. EVERY person subject to military law who commits the following offence; that is to say,

disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office, Mutiny Act, 15. Art. of War 38.

shall on conviction by court-martial be liable to suffer death, or such less punishment as is in this Act mentioned; and

every person subject to military law who commits the following offence; that is to say,

disobeys any lawful command given by his superior officer,

shall, on conviction by court-martial, if he commits such offence on active service, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Insubordination.

10. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) being concerned in any fray, refuses to obey any officer (though of inferior rank) who orders him into arrest, or strikes or uses or offers violence to any such officer; or Art. of War 40.

(2) strikes or uses or offers violence to any person, whether subject to military law or not, in whose custody he is placed, and who is not his superior officer; or

(3) resists an escort whose duty it is to apprehend him or to have him in charge; or

(4) being a soldier breaks out of barracks, camp, or quarters,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Neglect to obey garrison or other orders.

11. EVERY person subject to military law who commits the following offence; that is to say, Art. of War, 75.

neglects to obey any general garrison or other orders,

shall, on conviction by court-martial, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as in this Act mentioned.

Desertion, Fraudulent Enlistment, and Absence without Leave.

Desertion, fraudulent enlistment, and absence without leave.

Desertion.

12. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) deserts or attempts to desert Her Majesty's service; or

(2) persuades, endeavours to persuade, procures or attempts to procure, any person subject to military law to desert from Her Majesty's service,

shall, on conviction by court-martial—

Mutiny Act, 15. Art. of War, 42, 44.

(*a*) if he committed such offence when on active service or under orders for active service, be liable to suffer death, or such less punishment as in this Act mentioned; and

(*b*) if he committed such offence under any other circumstances, be liable for the first offence to suffer imprisonment, or such less punishment as is in this Act mentioned; and for the second or any subsequent offence to suffer penal servitude, or such less punishment as is in this Act mentioned.

Art. of War, 49.

Where an offender has fraudulently enlisted once or oftener, he may, for the purposes of trial for the offence of deserting or attempting to desert Her Majesty's service, be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs; and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly.

Fraudulent enlistment.

13. EVERY person subject to military law who commits any of the following offences; that is to say,

Mutiny Act, 15, 50. Art. of War, 42.

(1) when belonging to either the regular forces, the reserve forces, or the militia, without having first obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist, enlists in Her Majesty's regular forces,

(2) when belonging to the regular forces without having fulfilled the conditions enabling him to enlist, enrol, or enter, enlists in the militia, or enrols himself, or enlists in any of the reserve forces, or enters the Royal Navy,

shall be deemed to have been guilty of fraudulent enlistment, and shall on conviction by court-martial be liable—

(*a*) for the first offence to suffer imprisonment, or such less punishment as is in this Act mentioned; and

(*b*) for the second or any subsequent offence to suffer penal servitude, or such less punishment as is in this Act mentioned.

Desertion, fraudulent enlistment, and absence without leave.

Where an offender has fraudulently enlisted on several occasions he may, for the purposes of this section, be deemed to belong to any one or more of the corps to which he has been appointed or transferred, as well as to the corps to which he properly belongs; and it shall be lawful to charge an offender with any number of offences against this section at the same time, and to give evidence of such offences against him, and if he be convicted thereof to punish him accordingly. Art. of War, 49.

Persuasion of or connivance at desertion.

14. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) assists any person subject to military law to desert Her Majesty's service; or (1.) Art. of War, 44.

(2) being cognisant of any desertion or intended desertion of a person subject to military law, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter to be apprehended, (2.) Art. of War, 44.

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Absence from duty without leave.

15. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) absents himself without leave; or (1.) Art. of War, 50.

(2) fails to appear at the place of parade or rendezvous appointed by his commanding officer, or goes from thence without leave before he is relieved, or without urgent necessity quits the ranks; or (2.) Art. of War, 70.

(3) being a soldier, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general garrison or other order, without a pass or written leave from his commanding officer; or (3.) Art. of War, 50.

(4) being a soldier, without leave from his commanding officer, or without due cause, absents himself from any school when duly ordered to attend there, (4.) Art. of War, 82.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Disgraceful conduct.

Disgraceful Conduct.

Scandalous conduct of officer.

16. EVERY officer who, being subject to military law, commits the following offence; that is to say,

behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, Art. of War 79.

shall on conviction by court-martial be cashiered.

Disgraceful conduct.

17. EVERY person subject to military law who commits any of the following offences; that is to say,

Mutiny Act, 17. Art. of War, 80.

Stealing and embezzlement.

being charged with or concerned in the care or distribution of any public or regimental money or goods, steals, fraudulently misapplies, or embezzles the same, or is concerned in or connives at the stealing, fraudulent misapplication, or embezzlement thereof, or wilfully damages any such goods,

shall on conviction by court-martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.

Disgraceful conduct of soldier.

18. EVERY soldier who commits any of the following offences; that is to say,

(1.) Art of War, 81. (1) malingers, or feigns or produces disease or infirmity; or

(2.) Art of War, 81. (2) wilfully maims or injures himself or any other soldier, whether at the instance of such other soldier or not, with intent thereby to render himself or such other soldier unfit for service, or causes himself to be maimed or injured by any person, with intent thereby to render himself unfit for service; or

(3.) Art. of War, 81. (3) is wilfully guilty of any misconduct, or wilfully disobeys, whether in hospital or otherwise, any orders, by means of which misconduct or disobedience he produces or aggravates disease or infirmity, or delays its cure; or

(4.) Art. of War, 81. (4) steals or embezzles or receives knowing them to be stolen or embezzled any money or goods the property of a comrade or of an officer, or any money or goods belonging to any regimental mess or band, or to any regimental institution, or any public money or goods; or

(5.) Art. of War, 81. (5) is guilty of any other offence of a fraudulent nature not before in this Act particularly specified, or of any other disgraceful conduct of a cruel, indecent, or unnatural kind,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Drunkenness.

Drunkenness.

Art. of War, 76, 77.

Drunkenness.

19. EVERY person subject to military law who commits the following offence, that is to say;

the offence of drunkenness, whether on duty or not on duty,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned,

and, either in addition to or in substitution for any other punishment, to pay a fine not exceeding one pound.

Offences in relation to prisoners.

Offences in relation to Prisoners.

Permitting escape of prisoner.

20. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) releases without proper authority, when in command of a guard, picket, patrol, or post, any prisoner committed to his charge; or (1.) Art. of War, 73.

(2) allows to escape any prisoner who is committed to his charge, or whom it is his duty to keep or guard, (2.) Art. of War, 73.

shall on conviction by court-martial be liable if he has acted wilfully to suffer penal servitude, or such less punishment as is in this Act mentioned, and if he has acted negligently to suffer imprisonment or such less punishmment as is in this Act mentioned.

Irregular imprisonment.

21. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) unnecessarily detains a prisoner in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or (1.) Art. of War, 74.

(2) being in command of a guard, does not within twenty-four hours after a prisoner is committed to his charge, or as soon as he is relieved from his guard or duty, give in writing to the officer to whom he may be ordered to report the prisoner's name and crime, and the name and rank of the officer or other person by whom he was charged, (2.) Art. of War, 72.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Escape from confinement.

22. EVERY person subject to military law who commits the following offence; that is to say,

Being in arrest or confinement, or in prison or otherwise in lawful custody, escapes, or attempts to escape, Art. of War 69.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to property.

Offences in relation to Property.

Corrupt dealings in respect of supplies to forces.

23. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) being in command of any garrison, fort, or barrack, connives at the exaction of exorbitant prices for houses or stalls let to sutlers; or (1.) Art. of War 67.

(2.) Art. of War, 67.

(2.) lays any duty upon, or takes any fee or advantage in respect of, or is in any way interested in the sale of provisions or merchandise brought into places under his command,

Offences in relation to property.

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Deficiency in and injury to equipment.

24. EVERY soldier who commits any of the following offences; that is to say,

(1.) Art. of War, 102.

(1) pawns, sells, loses by neglect, makes away with, or wilfully spoils his arms, ammunition, equipments, instruments, clothing, or regimental necessaries; or

(2.) Art. of War, 102.

(2) pawns, sells, makes away with, or wilfully defaces any military decoration granted him; or

(3.) Art. of War, 102.

(3) ill-treats, or unlawfully sells or makes away with any horse of which he has charge,

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to False Documents and Statements.

Offences in relation to false documents and statements.

25. EVERY person subject to military law who commits any of the following offences; that is to say,

Falsifying official documents and false declarations.

(1) in any report, return, muster roll, pay list, certificate, book, route, or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy—

(1.) (*a*.) Art. of War, 84, 85, 89.

(*a*) knowingly makes or is privy to the making of any false or fraudulent statement; or

(1.) (*b*.) Art. of War, 86, 87, 88, 89.

(*b*) knowingly makes or is privy to the making of any omission with intent to defraud; or

(2) knowingly and with intent to defraud or to injure any person suppresses or makes away with any documents which it is his duty to preserve; or

(3.) Mutiny Act, 36. Art. War, 35.

(3) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

shall, on conviction by court-martial or otherwise under this Act, be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Neglect to report, and signing in blank.

26. EVERY person subject to military law who commits any of the following offences; that is to say,

(1.) rt. of War, 0.

(1) when signing any document relating to pay, arms, ammunition, equipments, clothing, regimental necessaries, provisions, furniture, bedding, blankets, sheets, utensils, forage, or stores, leaves in blank any material part for which his signature is a voucher; or

Offences in relation to false documents and statements.

(2) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send, (2.) Art. of War, 84.

shall, on conviction by court-martial or otherwise, be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

False accusation, or false statement by soldier.

27. EVERY person subject to military law who commits any of the following offences; that is say,

(1) being an officer or soldier, makes a false accusation against any other officer or soldier, knowing such accusation to be false; or

(2) being an officer or soldier, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of an officer or soldier, or knowingly and wilfully suppresses any material facts; or

(3) being a soldier, falsely states to his commanding officer that he has been guilty of desertion or of fraudulent enlistment, or of desertion from the navy, or has served in and been discharged from any portion of the regular forces, reserve forces, or auxiliary forces, or the navy; or Art. of War, 46. Mar. Art. of War, 34.

(4) being a soldier, makes a wilfully false statement to any military officer or justice in respect of the prolongation of furlough, (4.) See Mutiny Act, 38.

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Offences in relation to courts-martial.

Offences in relation to Courts-martial.

Offences in relation to courts-martial.

28. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) being duly summoned or ordered to attend as a witness before a court-martial, makes default in attending; or (1.) See Mutiny Act, 13.

(2) refuses to take an oath or make a solemn declaration legally required by a court-martial to be taken or made; or (2.) See Mutiny Act, 13.

(3) refuses to produce any document in his power or control legally required by a court-martial to be produced by him; or (3.) See Mutiny Act, 13.

(4) refuses to answer any question to which a court-martial may legally require an answer; or (4.) See Mutiny Act, 13.

(5) is guilty of contempt of a court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court, (5.) Art. of War, 161.

shall on conviction by a court-martial other than the court in relation to or before whom the offence was committed be liable, if an officer, to be cashiered,

Offences in relation to courts-martial.

or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned: Provided that where a person subject to military law, whether present as a witness or bystander, or in any capacity other than as a prisoner, is guilty of contempt of a court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court, that court, if they think it expedient, instead of the offender being tried by another court-martial, may by order under the hand of the president commit such offender to prison, there to be imprisoned, with or without hard labour, for a period not exceeding twenty-one days.

Perjury or false declaration.

29. EVERY person subject to military law who commits the following offence; that is to say,

Mutiny Act, 96.
Art. of War, 35.

when examined on oath or solemn declaration before a court-martial, or any court or officer authorized by this Act to administer an oath, wilfully gives false evidence,

shall be liable on conviction by court-martial to suffer imprisonment, or such less punishment as is in this Act mentioned.

30. } [*Omitted as not applying to India.*]
31. }

Offences in relation to Enlistment.

Offences in relation to enlistment.

Enlistment of soldier or sailor discharged with ignominy or disgrace.

32. EVERY person having become subject to military law, who is discovered to have committed the following offence; that is to say,

having been discharged with ignominy, or as incorrigible and worthless, from the regular forces, or from any portion of the auxiliary forces when subject to military law, or from the reserve forces, or having been dismissed with disgrace from the navy, has afterwards enlisted in the regular forces without declaring the circumstances of his discharge,

shall on conviction by court-martial be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.

Mutiny Act, s. 8.

False answers or declarations on enlistment.

33. EVERY person having become subject to military law who is discovered to have committed any of the following offences; that is to say,

(1) to have made a wilfully false statement to a justice before whom he appeared to be attested in regard to any question directed to be put to him by proper authority; or

(2) to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by or by direction of such justice,

shall on conviction by court-martial be liable to suffer imprisonment or such less punishment as is in this Act mentioned.

Offences in relation to enlistment.

General offences in relation to enlistment.

34. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) enlists for service in the regular forces any man whom he knows or has reasonable cause to believe to belong to the regular forces, reserve forces, or militia, or to the navy, and whom he is not for the time being authorized so to enlist, or any man whom he knows or has reasonable cause to believe to have been discharged with ignominy or as incorrigible and worthless from the regular forces, or from any portion of the auxiliary forces when subject to military law, or from the reserve forces, or to have been dismissed with disgrace from the navy; or

(2) wilfully contravenes any of the provisions of this Act or the regulations of the service in any matter relating to the enlistment or attestation of soldiers of the regular forces,

(2.) Mutiny Act, 51. Art. of War, 95.

shall on conviction by court-martial be liable to suffer imprisonment, or such less punishment as is in this Act mentioned.

Miscellaneous Military Offences.

Miscellaneous military offences.

Traitorous words.

35. EVERY person subject to military law who commits the following offence; that is to say,

uses traitorous or disloyal words regarding the Sovereign, Art. of War, 39.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Injurious disclosures.

36. EVERY person subject to military law who commits the following offence; that is to say,

whether serving with any of Her Majesty's forces or not, without due authority either verbally or in writing discloses the numbers or position of any forces, or any magazines or stores thereof, or any preparations for, or orders relating to, operations or movements of any forces, at such time and in such manner as in the opinion of the court to have produced effects injurious to Her Majesty's service, Art. of War, 63.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Ill-treating soldier.

37. EVERY officer or non-commissioned officer who commits any of the following offences; that is to say,

(1) strikes or otherwise ill-treats any soldier; or

(1.) Art. of War 100.

(2) Mutiny Act, 30.

(2) having received the pay of any officer or soldier, unlawfully detains or unlawfully refuses to pay the same when due,

Miscellaneous military offences.

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a non-commissioned officer, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Duelling and attempting to commit suicide.

38. EVERY person subject to military law who commits any of the following offences; that is to say,

(1) Art. of War, 38.

(1) fights, or promotes or is concerned in or connives at fighting, a duel; or

(2) Art. of War, 104.

(2) attempts to commit suicide,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Refusal to deliver to civil power officers and soldiers accused of civil offences.

39. EVERY person subject to military law who commits any of the following offences; that is to say,

Art. of War, 36, and see 37.

on application being made to him neglects or refuses to deliver over to the civil magistrate, or to assist in the apprehension of, any officer or soldier accused of an offence punishable by a civil court,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier, to suffer imprisonment, or such less punishment as is in this Act mentioned.

Art. of War, 105.

Conduct to prejudice of military discipline.

40. EVERY person subject to military law who commits any of the following offences; that is to say,

is guilty of any act, conduct, disorder, or neglect, to the prejudice of good order and military discipline,

shall on conviction by court-martial be liable, if an officer, to be cashiered, or to suffer such less punishment as is in this Act mentioned, and if a soldier to suffer imprisonment, or such less punishment as is in this Act mentioned. Provided that no person shall be charged under this section in respect of any offence for which special provision is made in any other part of this Act.

Offences punishable by ordinary Law.

Offences punishable by ordinary law.

Mutiny Act, 101. Art. of War, 95, 143, 144, 45.

Offences punishable by ordinary law.

41. SUBJECT to such regulations for the purpose of preventing interference with the jurisdiction of the civil courts as are in this Act after mentioned, every person who, whilst he is subject to military law, shall commit any of the offences in this section mentioned shall be deemed to be guilty of an offence against military law, and if charged under this section with any such offence

Offences punishable by ordinary law.

(in this Act referred to as a civil offence) shall be liable to be tried by court-martial, and on conviction to be punished as follows; that is to say,

(1) if he is convicted of treason, be liable to suffer death, or such less punishment as is in this Act mentioned; and

(2) if he is convicted of murder, be liable to suffer death; and

(3) if he is convicted of manslaughter or treason-felony, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

(4) if he is convicted of rape, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned; and

(5) if he is convicted of any offence not before in this Act specified which when committed in England is punishable by the law of England, be liable, whether the offence is committed in England or elsewhere, either to suffer such punishment as might be awarded to him in pursuance of this Act in respect of an act to the prejudice of good order and military discipline though not in this Act specified, or to suffer any punishment assigned for such offence by the law of England.

Provided as follows:—

(*a*) A person subject to military law shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape committed in the United Kingdom, and shall not be tried by court-martial for treason, murder, manslaughter, treason-felony, or rape committed in any place within Her Majesty's dominions, other than Gibraltar, unless such person at the time he committed the offence was on active service, or such place is more than one hundred miles as measured in a straight line from any city or town in which the offender can be tried for such offence by a competent civil court: See Mutiny Act, 101.

(*b*) A person subject to military law when in Her Majesty's dominions may be tried by any competent civil court for any offence for which he would be triable if he were not subject to military law. Mutiny Act, 76.

Redress of wrongs.

Redress of Wrongs.

Mode of complaint by officer.

42. If an officer thinks himself wronged by his commanding officer, and on due application made to him does not receive the redress to which he may consider himself entitled, he may complain to the Commander-in-Chief in order to obtain justice, who is hereby required to examine into such complaint, and through a Secretary of State make his report to Her Majesty in order to receive the directions of Her Majesty thereon. Art. of War, 12.

See Art. of War, 13.

Redress of wrongs.

Mode of complaint by soldier.

43. If any soldier thinks himself wronged in any matter by any officer other than his captain, or by any soldier, he may complain thereof to his captain, and if he thinks himself wronged by his captain, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the general or other officer commanding the district or station where the soldier is serving; and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

Punishments.

Punishments.

Scale of punishment by courts-martial.

44. Punishments may be inflicted in respect of offences committed by persons subject to military law and convicted by courts-martial, —

in the case of officers, according to the scale following:

(a.) Mutiny Act, 8. Art. of War, 115. *a.* Death.

(b.) Mutiny Act, 8, 16, 17. Art. of War, 115, 116. *b.* Penal servitude for a term not less than five years.

(c.) Mutiny Act, 8, 16, 17. Art. of War, 115, 116, 126. *c.* Imprisonent, with or without hard labour, for a term not exceeding two years.

(d.) Mutiny Act, 8. *d.* Cashiering.

(e.) Mutiny Act, 8, 17. *e.* Dismissal from Her Majesty's service.

(f.) Art. of War, 125. *f.* Forfeiture in the prescribed manner of seniority of rank, either in the army or in the corps to which the offender belongs, or in both.

(g.) Art. of War, 125. *g.* Reprimand, or severe reprimand.

In the case of soldiers, according to the scale following:

(h.) Mutiny Act, 8. Art. of War, 115. *h.* Death, or corporal punishment,[a] as in this Act mentioned.

(i.) Mutiny Act, 8, 16, 17. Art. of War, 115, 116, 126. *j.* Penal servitude for a term not less than five years.

[a] So much of this Act as prescribed corporal punishment for offences committed by persons subject to military law and convicted of such offences by court-martial is repealed by 44 Vic., c. 9, s. 6.

Punishments.

k. Imprisonment, with or without hard labour, for a term not exceeding two years. (*k.*) Mutiny Act, 8, 16, 17, 22. Art. of War, 115, 116, 126.

l. Discharge with ignominy from Her Majesty's service. (*l.*) Art. of War, 117.

m. Dismissal, if a volunteer, from Her Majesty's service.

n. Reduction in the case of a non-commissioned officer to a lower grade, or to the rank of a private soldier. (*n.*) Mutiny Act, 17. Art. of War, 137.

o. Forfeitures, fines, and stoppages. (*o.*) Mutiny Act, 8, 17. Art. of War, 115, 117, 130, 131.

Provided that—

(1.) Where in respect of any offence under this Act there is specified a particular punishment, or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence, instead of such particular punishment (but subject to the other regulations of this Act as to punishments, and regard being had to the nature and degree of the offence) any one punishment lower in the above scales than the particular punishment.

(2.) An officer shall be sentenced to be cashiered before he is sentenced to penal servitude or imprisonment. (2.) Art. of War, 20.

(3.) An officer when sentenced to forfeiture of seniority of rank may also be sentenced to reprimand or severe reprimand. (3.) Art. of War, 125.

(4.) A soldier when sentenced to penal servitude or imprisonment, or (subject to the provisions of this Act) to corporal punishment, may, in addition thereto, be sentenced to be discharged with ignominy from Her Majesty's service. (4.) Art. of War, 117.

(5.) A sentence of corporal punishment shall not exceed twenty-five lashes, and shall not be inflicted upon a non-commissioned officer or on a reduced non-commissioned officer for any offence committed while holding the rank of non-commissioned officer.[a] (5.) Mutiny Act, 22. Art. of War, 118.

(6.) Corporal punishment in pursuance of this Act may be inflicted on soldiers while on active service for such offences as are in that behalf mentioned in the First Schedule hereto,[b] but shall not be inflicted under any other circumstances; and the authority having power under this Act to commute or mitigate any punishment may, without prejudice to any other power of commutation or mitigation conferred on such authority by this Act, commute a sentence of (6.) Mutiny Act, 22, 24. Art. of War, 118, 120.

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a, b See note on p. 1079.

corporal punishment into imprisonment, with or without hard labour, for a period not exceeding forty-two days. *Punishments.*

(7.) See Mutiny Act, 8. Art. of War, 115, 117, 168, 170, 171, 172.

(7.) In addition to or without any other punishment in respect of any offence, an offender convicted by court-martial may be subject to forfeiture of any deferred pay, service towards pension, military decoration or military reward, in such manner as may for the time being be provided by royal warrant, but shall not, save as may be provided by Royal warrant, be liable to any forfeiture under the Regimental Debts Act, 1863, or under any Act relating to the military savings banks, or any regulations made in pursuance of either of the above-mentioned Acts. 26 & 27 Vict. c. 57.

(8.) Mutiny Act, 8, 17. Art. of War, 130, 131.

(8.) In addition to or without any other punishment in respect of any offence, an offender may be sentenced by court-martial to any deduction authorized by this Act to be made from his ordinary pay.

(9.) A female camp-follower shall not be liable to be sentenced by court-martial to corporal punishment.

(10.) Sentences of corporal punishment shall be inflicted in manner directed by rules to be issued by a Secretary of State.

(11.) Returns shall be annually laid before Parliament of all sentences of flogging which have been inflicted in whole or in part, specifying the number of lashes and the nature of the offence.

Arrest and Trial.

Arrest.

Arrest.

Custody of persons charged with offences.

45. The following regulations shall be enacted with respect to persons subject to military law when charged with offences punishable under this Act:

(1.) Art. of War, 18.

(1) Every person subject to military law when so charged may be taken into military custody: Provided, that in every case where any officer or soldier not on active service remains in such military custody for a longer period than eight days without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in manner prescribed, and a similar report shall be forwarded every eight days until a court-martial is assembled or the officer or soldier is released from custody:

(2.) Art. of War, 18.

(2) Military custody means, according to the usages of the service, the putting the offender under arrest, or the putting him in confinement:

Arrest.

(3) An officer may order into military custody an officer of inferior rank or any soldier, and any non-commissioned officer may order into military custody any soldier, and an officer may order into military custody any officer (though he be of higher rank) engaged in a quarrel, fray, or disorder; and any such order shall be obeyed, notwithstanding the person giving the order and the person in respect of whom the order is given do not belong to the same corps, arm, or branch of the service: (3.) Art. of War, 15.

(4) An officer or non-commissioned officer commanding a guard or a provost-marshal shall not refuse to receive or keep any person who is committed to his custody by any officer or non-commissioned officer, but it shall be the duty of the officer or non-commissioned officer who commits any person into custody to deliver at the time of such committal, or within forty-eight hours thereafter, to the officer, non-commissioned officer, or provost-marshal into whose custody the person is committed, an account in writing, signed by himself, of the offence with which the person so committed is charged: (4.) Art. of War 19.

(5) The charge made against every person taken into military custody shall without unnecessary delay be investigated by the proper military authority, and; as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody. (5.) Art. of War, 18.

Power of commanding officer.

Power of Commanding Officer.

Power of commanding officer.

46. The commanding officer shall, upon an investigation being had of a charge made against a person subject to military law under his command of having committed an offence under this Act, dismiss the charge if he in his discretion thinks that it ought not to be proceeded with, but where he thinks the charge ought to be proceeded with, he may take steps for bringing the offender to a court-martial, or in the case of a soldier may deal with the case summarily. Art. of War, 32, 50.

Where he deals with a case summarily, he may,—

(*a*) award to the offender imprisonment, with or without hard labour, for any period not exceeding seven days; and Art. of War, 50.

(*b*) in the case of the offence of drunkenness, may order the offender to pay a fine not exceeding ten shillings, either in addition to or without imprisonment with or without hard labour; and Art. of War, 77.

(*c*) in addition to or without any other punishment, may order the offender to suffer any deduction from his ordinary pay authorized by this Act to be made by the commanding officer. Art. of War, 50, 1 79

Power of commanding officer.

Where the charge is against a soldier for drunkenness not on duty, the commanding officer shall deal with the case summarily unless the soldier was guilty of drunkenness after being warned for duty, or unless he has been guilty of drunkenness on not less than four occasions in the preceding twelve months.

In the case of absence without leave, the commanding officer may award imprisonment, with or without hard labour, for any period not exceeding twenty-one days.

Provided that where imprisonment is awarded for absence without leave the commanding officer shall have regard to the number of days during which the offender has been absent, and in no case shall the term of imprisonment awarded, if exceeding seven days, exceed the term of absence.

Provided that in every case where the power of summary award by a commanding officer exceeds a sentence of seven days imprisonment, the accused person may demand that the evidence against him should be taken on oath, and the same oath as that required to be taken by witnesses before a court-martial shall be administered to each witness in such case.

An offender shall not be liable to be tried by court-martial for any offence which has been dealt with summarily by his commanding officer, and shall not be liable to be punished by his commanding officer for any offence of which he has been acquitted or convicted by a competent civil court or by a court-martial.

Art. of War, &c. 77. A soldier ordered by his commanding officer to suffer imprisonment or pay a fine, or to suffer any deduction from his ordinary pay, shall, if he so request, have a right to be tried by a district court-martial instead of submitting to such imprisonment, fine, or deduction.

Art. of War, 32, 50. Nothing in this section shall prejudice the power of a commanding officer to award such minor punishments as he is for the time being authorized to award, so, however, that a minor punishment shall not be awarded for any offence for which imprisonment exceeding seven days is awarded.

Courts-martial.

Courts-martial.

Regimental courts-martial.

(1.) Mutiny Act, 10, 11. Art. of War, 112, 113, 135. **47.** (1.) ANY officer authorized by or in pursuance of this Act to convene general and district courts-martial or either of them, also any commanding officer of a rank not below the rank of captain, also on board a ship not commissioned by Her Majesty, a commanding officer of any rank may, without warrant and by virtue of this Act, convene a regimental court-martial for the trial of offences committed by soldiers under his command.

(2.) Art. of War, 112, 113. (2.) Such court-martial shall consist of not less than five officers: Provided that if in the opinion of the officer who convenes a court-martial, such

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opinion to be expressed in the order convening the court, and to be conclusive, five officers are not, having due regard to the public service, available, such court-martial may consist of not less than three officers.

(3.) The convening officer shall appoint the president. (3.) Art. of War, 114.

(4.) The president of a regimental court-martial shall not be under the rank of captain, unless where the court-martial is held on the line of march, or on board any ship not commissioned by Her Majesty, or unless, in the opinion of the convening officer, such opinion to be expressed in the order convening the court and to be conclusive, a captain is not, with due regard to the public service, available, in any of which cases an officer of any rank may be president. (4.) Art. of War, 114.

(5.) A regimental court-martial shall not try an officer, nor award the punishment of death or penal servitude, or of imprisonment in excess of forty-two days, or of discharge with ignominy; but, subject as aforesaid, and save as in this Act specially mentioned, any offence under this Act committed by a person subject to military law, and triable by court-martial, may be tried and punished by a regimental court-martial. (5.) Mutiny Act, 10, 11, 27. Art. of War 117, 129.

General and district courts-martial.

48. THE following rules are enacted with respect to general courts-martial and district courts-martial:

(1) A general court-martial shall be convened by Her Majesty, or some officer deriving authority to convene a general court-martial immediately or mediately from Her Majesty:

(2) A district court-martial shall be convened by an officer authorized to convene general courts-martial, or some officer deriving authority to convene a district court-martial from an officer authorized to convene general courts-martial:

(3) A general court-martial shall consist of not less than nine officers, each of whom must have held a commission during the three years preceding the day appointed for the assembling of the court: Provided that if in the opinion of the officer who convenes the court-martial, such opinion to be expressed in the order convening the court, and to be conclusive, nine officers are not, having due regard to the public service, available, such court-martial may consist of not less than five officers: (3.) Mutiny Act, 8. Art. of War, 106.

(4) A district court-martial shall consist of not less than seven officers: Provided that if in any place not in the United Kingdom, India, Malta, or Gibraltar, in the opinion of the officer who convenes the court (such opinion to be expressed in the order convening the court, and to be conclusive), seven officers are (4.) Mutiny Act, 9. Art. of War 108.

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not, having due regard to the public service, available, the court shall consist of five officers, unless in the opinion of the said officer (such opinion to be expressed in the order convening the court, and to be conclusive) five officers are not, having due regard to the public service, available, in which case the court-martial may consist of three officers:

(5.) Mutiny Act, 8, 9, 26. Art. of War, 115, 117.

(5) A district court-martial shall not try a person subject to military law as an officer, nor award the punishment of death or penal servitude; but, subject as aforesaid, any offence under this Act committed by a person subject to military law, and triable by court-martial, may be tried and punished by either a general or district court-martial:

(6.) Art. of War, 106.

(6) An officer under the rank of captain shall not be a member of a court-martial for the trial of a field officer:

(7.) Mutiny Act, 8. Art. 116.

(7) Sentence of death shall not be passed on any prisoner without the concurrence of two thirds at the least of the officers serving on the court-martial by which he is tried:

(8.) Art. of War, 114.

(8) The president of a court-martial, whether general or district, shall be appointed by order of the authority convening the court, but he shall not be under the rank of field officer, unless the officer convening the court is under that rank, or unless in the opinion of the officer who convenes the court, such opinion to be expressed in the order convening the court, and to be conclusive, a field officer is not, with due regard to the public service, available, in either of which cases an officer not below the rank of captain may be the president of such court-martial, and he shall not be under the rank of captain, except in the case of a district court-martial, where in the opinion of the officer who convenes the court, such opinion to be expressed in the order convening the court, and to be conclusive, a captain is not, having due regard to the public service, available.

Mutiny Act, 12. Art. of War, 107.

Field general courts-martial.

49. WHERE a complaint is made to any officer in command of any detachment or portion of troops in any country beyond the seas, that an offence has been committed by any person subject to military law under his command against the property or person of any inhabitant of or resident in such country,—

then, if in the opinion of such officer it is not practicable that such offence should be tried by an ordinary general court-martial, it shall be lawful for him, although not authorized to convene general courts-martial, to convene

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a court-martial, in this Act referred to as a field general court-martial, for the trial of the person charged with such offence, provided as follows:

(1) A field general court-martial shall consist of not less than three officers; Mutiny Act, 12. Art. of War, 107. Art. of War, 114.

(2) The convening officer may preside, but he shall, whenever he deems it practicable, appoint another officer as president, who may be of any rank, but shall, if practicable in the opinion of the convening officer, be not below the rank of captain.

A field general court-martial may, notwithstanding the restrictions enacted by this Act in respect of the trial by court-martial of civil offences within the meaning of this Act, try any person subject to military law who is under the command of the convening officer and is charged with any such offence as is mentioned in this section, and may award for such offence any sentence which a general court-martial is competent to award for such offence: Provided always, that no sentence of any such court-martial shall be executed until confirmed as provided by this Act. Mutiny Act, 12. Art. of War, 117, 124, 145

Courts-martial in general.

50. (1.) THE officers sitting on a court-martial may belong to the same or different corps, or may be unattached to any corps, and may try persons attached to any corps. (1.) Art. of War, 109, 112, 113 146. Marine Mutiny Act, 14. Marine Act, 127.

(2.) The officer who convened a court-martial shall not, save as is otherwise expressly provided by this Act, sit on that court-martial. (2.) Art. of War, 112, 113, 114.

(3.) A prosecutor or witness for the prosecution shall not sit on a court-martial for the trial of any prisoner whom he prosecutes, or against whom he is witness, nor shall he act as judge advocate at such court-martial. The commanding officer of a corps to which a prisoner belongs, or the officer who investigated the charges on which a prisoner is arraigned, shall not, save in the case of a field general court-martial, sit on the court-martial for the trial of such prisoner, nor shall he act as judge advocate at such court-martial. (3.) Naval Discipline Act, s. 58. (8). Art. of War, 159.

Challenges by prisoner.

51. (1.) A PRISONER about to be tried by any court-martial may object, for any reasonable cause, to the president or any officer appointed to serve thereon either originally or to fill a vacancy caused by the retirement of an officer objected to, so that the court may be constituted of officers to whom the prisoner makes no reasonable objection. Art. of War, 152.

(2.) Every objection made by a prisoner to any officer shall be submitted to the other officers appointed to form the court.

(3.) If the objection is to the president, such objection, if allowed by one third or more of the other officers appointed to form the court, shall be allowed,

and the court shall adjourn for the purpose of the appointment of another president. *Courts-martial.*

(4.) If an objection to the president is allowed, the authority convening the court shall appoint another president, subject to the same right of the prisoner to object.

(5.) If the objection is to an officer other than the president, and is disallowed, the trial shall proceed as if no objection had been made; if it is allowed, the officer objected to shall retire. Upon the retirement of an officer or officers the president may, and if the said retirement reduces the number of officers of the court below the number named in the order convening the court shall, appoint out of any officers nominated in that behalf by order of the convening authority an officer or officers to serve in lieu of the officer or officers so retiring, subject to the right of the prisoner to object as before mentioned: Provided that if by such appointment the number of officers of the court is not made up to the number named in the order convening the court, the court shall adjourn, and the convening authority shall nominate a further number of officers to serve on the court, subject to the right of the prisoner to object as before mentioned: but if such retirement does not reduce the number of officers below the number named in the order convening the court, the proceedings of the court shall be valid, although no such new appointment is made.

(6.) In order to enable a prisoner to avail himself of his privilege of objecting to any officer, the names of the officers appointed to form the court shall be read over in the hearing of the prisoner on their first assembling, and before they are sworn, and he shall be asked whether he objects to any of such officers, and a like question shall be repeated in respect of any officer appointed to serve in lieu of a retiring officer.

(7.) The decision under this section of any objection shall, except where one-third are expressed to be sufficient, be made by a majority of the votes of the officers entitled to vote, and if the votes are equal, the objection shall be deemed to be allowed.

Art. of War, 152.

52. An oath shall be administered by the prescribed person to every member of every court-martial before the commencement of the trial in the following form; that is to say, *Administration of oaths.*

'You do swear, that you will well and truly try the prisoner before the court according to the evidence, and that you will duly administer justice according to the Army Discipline and Regulation Act, now in force, without partiality, favour, or affection, and you do further swear that you will not divulge the sentence of the court until it is duly confirmed, and you do further swear that you will not on any account at any

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'time whatsoever disclose or discover the vote or opinion of any particular 'member of this court-martial, unless thereunto required in due course of law.

'So help you GOD.'

An oath in the prescribed form or forms shall be administered by the prescribed person to the judge advocate or person officiating as judge advocate (if any), and also to every officer in attendance on a court-martial for the purpose of instruction (if any), and also to every shorthand writer (if any) in attendance on the court-martial. Mutiny Act, 13. Art. of War, 152.

Every witness before a court-martial shall be examined on oath, which the president or other prescribed person shall administer in the prescribed form. Mutiny Act, 13. Art. of War, 153.

See 32 & 33 Vict. c. 68. s. 4.

If a person by this Act required either as a member of, or person in attendance on, or witness before a court-martial, or otherwise in respect of a court-martial, to take an oath, objects to take an oath, or is objected to as incompetent to take an oath, the court, if satisfied of the sincerity of the objection, or, where the competence of the person to take an oath is objected to, of the oath having no binding effect on the conscience of such person, shall permit such person instead of being sworn to make a solemn declaration in the prescribed form, and for the purposes of this Act such solemn declaration shall be deemed to be an oath.

Procedure.

53. (1.) If a court-martial after the commencement of the trial is, by death or otherwise, reduced below the number named in the order convening the court, it shall be dissolved.

(2.) If after the commencement of the trial the president dies or is otherwise unable to attend, and the court is not reduced below the number named in the order convening the court, the convening authority may appoint the senior member of the court, if of sufficient rank, to be president, and the trial shall proceed accordingly; but if he is not of sufficient rank the court shall be dissolved.

(3.) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(4.) Where a court-martial is dissolved the prisoner may be tried again.

(5.) The president of any court-martial may, on any deliberation amongst the members, cause the court to be cleared of all other persons. (5.) Art. of War, 162.

(6.) The court may adjourn from time to time.

(7.) The court may also, where necessary, view any place. (7.) Art. of War, 160.

(8.) In the case of an equality of votes on the finding the prisoner shall be deemed to be acquitted. In the case of an equality of votes on the sentence, or any question arising after the commencement of the trial except the finding, the president shall have a second or casting vote.

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(9.) When a court-martial shall recommend a prisoner to mercy, such recommendation shall be attached to and form part of the proceedings of the court, and shall be promulgated and communicated to the prisoner, together with the finding and sentence.

Confirmation, revision, and approval of sentences.

(1.) 54. (1.) THE following authorities shall have power to confirm the findings and sentences of courts-martial; that is to say,

(a.) Art. of War, 129, 135.

(*a*) in the case of a regimental court-martial, the convening officer or officer having authority to convene such a court-martial at the date of the submission of the finding and sentence thereof:

(b.) Mutiny Act, 101. Art. of War, 123, 143, 144, 145.

(*b*) in the case of a general court-martial, Her Majesty, or some officer deriving authority to confirm the findings and sentences of general courts-martial immediately or mediately from Her Majesty:

(c.) Art. of War, 127.

(*c*) in the case of a district court-martial, an officer authorized to confirm the findings and sentences of general courts-martial, or some officer deriving authority to confirm the findings and sentences of district courts-martial from an officer authorized to confirm findings and sentences of general courts-martial:

Mutiny Act, 12. Art. of War, 124, 145.

(*d*) in the case of a field general court-martial, an officer authorized to confirm the findings and sentences of general courts-martial for the trial of offences in the force of which the detachment or portion of troops under the command of the convening officer forms part.

(2.) Mutiny Act, 14. Art. of War, 163.

(2.) The authority having power to confirm the finding and sentence of a court-martial may send back such finding and sentence, or either of them, for revision once, but not more than once, and it shall not be lawful for the court on any revision to receive any additional evidence; and where the finding only is sent back for revision, the court shall have power without any direction to revise the sentence also. In no case shall the authority recommend the increase of a sentence, nor shall the court-martial on revisal of the sentence, either in obedience to the recommendation of an authority, or for any other reason, have the power to increase the sentence awarded.

(3.) The finding of acquittal, whether on all or some of the offences with which the prisoner is charged, shall not require confirmation or be subject to be revised, and if it relates to the whole of the offences shall be pronounced at once in open court, and the prisoner shall be discharged.

(4.) Art. of War, 114.

(4.) A member of a court-martial shall not have authority to confirm the finding or sentence of that court-martial, and where a member of a court-martial becomes confirming officer he shall refer the finding and sentence of the court-martial to a superior officer competent to confirm the findings and sentences of the like description of courts-martial, and that officer shall, for

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the purposes of this Act, be deemed to be in that instance the confirming authority.

(5.) An officer having authority to confirm the finding and sentence of a court-martial may withhold his confirmation, and refer such finding and sentence to any superior authority competent to confirm the findings and sentences of the like description of courts-martial, and that authority shall for the purposes of this Act be deemed to be in that instance the confirming authority; and where a court-martial is held in a colony, and there is no such superior officer in that colony, the governor of that colony shall have authority to confirm the finding and sentence of such court-martial in like manner in all respects as if he were such superior officer as above mentioned.

(6.) Subject to the provisions of this Act with respect to the finding of acquittal, the finding and sentence of a court-martial shall not be valid except in so far as the same may be confirmed by an authority authorized to confirm the same. Mutiny Act, 12, 101. Art. of War, 123, 124, 127, 129, 143, 144, 145.

(7.) Sentence of death when passed in a colony shall not, unless passed in respect of an offence committed on active service, be carried into effect unless, in addition to the confirmation otherwise required by this Act, it is approved by the Governor of the colony. Art. of War, 123.

(8.) Sentence of death when passed in India in respect of the offence of treason or murder shall not be carried into effect unless, in addition to the confirmation otherwise required by this Act, it is approved by the Governor General, or if the offender was tried within the limits of any presidency, the Governor of that presidency. Mutiny Act, 101. Art. of War, 144.

(9.) Where a person subject to military law is convicted of manslaughter or rape, or any other civil offence under the section of this Act relating to the trial by court-martial of civil offences, and is sentenced to penal servitude, such sentence shall not be carried into execution unless, in addition to the confirmation otherwise required by this Act, it is approved in India by the Governor General, or if the offender has been tried within the limits of any presidency, the Governor of the presidency, or if he has been tried in a colony, the Governor of the colony. See Mutiny Act, 101. Art. of War, 144.

Conviction of less offence permissible on charge of greater.

55. A PRISONER charged before a court-martial with stealing may be found guilty of embezzlement or of fraudulently misapplying money or property.

A prisoner charged before a court-martial with embezzlement may be found guilty of stealing or fraudulently misapplying money or property.

Naval Discipline Act, s. 48.

A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave. Art. of War, 43.

A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

Courts-martial.

A prisoner charged before a court-martial with any other offence under this Act may, on failure of proof of an offence being committed under circumstances involving a higher degree of punishment, be found guilty of the same offence as being committed under circumstances involving a less degree of punishment.

Execution of sentence.

Execution of Sentence.

Commutation and remission of sentences.

See Mutiny Act, 6, 16, 20, 21, 24, 25, 101. Art. of War, 141, 142, 143, 144, 145.

56. The confirming authority may, when confirming the sentence of any court-martial, mitigate or remit the punishment thereby awarded, or commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial; and for the purpose of commutation of punishment, corporal punishment shall be deemed to stand in the same position in the scale of punishments in this Act mentioned as imprisonment. The confirming authority may also suspend for such time as seems expedient the execution of a sentence.

When a sentence passed by a court-martial has been confirmed, the following authorities shall have power to mitigate or remit the punishment thereby awarded, or to commute such punishment for any less punishment or punishments to which the offender might have been sentenced by the said court-martial; that is to say,

(1) as respects persons undergoing sentence in any place whatever, Her Majesty or the Commander-in-Chief or the officer commanding the district or station where the prisoner subject to such punishment may for the time being be; and

(2) as respects persons undergoing sentences in India, the Commander-in-Chief of the forces in India, or as respects persons undergoing sentences in any presidency, the Commander-in-Chief of the forces in that presidency; and

(3) as respects persons undergoing sentences in any colony, the officer commanding the forces in that colony; and

(4) as respects persons undergoing sentences in any place not in the United Kingdom, India, or a colony, the officer commanding the forces in such place:

Provided that the power given by this section shall not be exercised by an officer holding a command inferior to that of the authority confirming the sentence, unless such officer is authorized by such confirming authority or other superior military authority to exercise such power.

An authority having power under this section to mitigate, remit, or commute any punishment may, if it seem fit, do all or any of those things in respect of a person subject to such punishment.

Execution of sentence.

The provisions of this Act with respect to an original sentence of penal servitude or imprisonment shall apply to a sentence of penal servitude or imprisonment imposed by way of commutation. See Mutiny Act, 18, 19.

Effect of sentence of penal servitude.

57. WHERE a person subject to military law is convicted by a court-martial, whether in the United Kingdom or elsewhere, either within or without Her Majesty's dominions, and is sentenced to penal servitude, such conviction and sentence shall be of the same effect as if such person (in this Act referred to as a military convict) had been convicted in the United Kingdom of an offence punishable by penal servitude and sentenced to penal servitude by a competent civil court, and all enactments relating to a person sentenced to penal servitude by a competent civil court shall, so far as circumstances admit, apply accordingly. See Mutiny Act, 18.

58. [*Omitted as not applying to India.*]

Execution of sentences of penal servitude passed in India or a colony.

59. (1.) WHERE a sentence of penal servitude is passed by a court-martial in India or any colony, the military convict on whom such sentence has been passed shall, as soon as practicable, be transferred to a penal servitude prison to undergo his sentence according to law. See Mutiny Act, 18, 19.

(2.) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for his transfer to a penal servitude prison.

(3.) The military convict during the period which intervenes between the passing of his sentence and his arrival at the penal servitude prison (in this section referred to as the term of his intermediate custody) shall be deemed to be in legal custody.

(4.) The military convict during his term of intermediate custody may be kept in military custody or in civil custody, or partly in one description of custody and partly in the other, and may from time to time be transferred from military custody to civil custody and from civil custody to military custody as occasion may require, and may, during his conveyance from place to place, or when on board ship or otherwise, be subjected to such restraint as is necessary for his detention and removal. See Mutiny Act, 31.

(5.) "Civil custody," for the purposes of this section, means custody in any authorized prison; nevertheless, where it is not practicable to place the military convict in an authorized prison, he may, by way of civil custody, be confined temporarily in any other prison with the assent of the authority having jurisdiction over that prison.

(6.) The military convict whilst in any prison in which he may legally be placed may be dealt with, in respect of hard labour and otherwise, according to the rules of that prison.

(7.) An order of the removing authority (hereafter in this section mentioned) shall be a sufficient authority for the transfer of the military convict

from military custody to civil custody and from civil custody to military custody, and his removal from place to place, and for his detention in civil custody, and generally for dealing with such convict in such manner as may be thought expedient during the term of his intermediate custody. *Execution of sentence.*

See 43 Geo. 3. c. 140. 16 & 17 Vict. c. 30. s. 9.

(8.) The removing authority during the term of the intermediate custody of the military convict may from time to time by order provide for his being brought before a court-martial, or any civil court, either as a witness or for trial or otherwise, and an order of such authority shall be a sufficient warrant for the delivering him into military custody, and detaining him in custody until he can be returned to the place from whence he is brought, or to such other place as may be determined by the removing authority. See Mutiny Act, 31.

(9.) Any directions of the removing authority relating to the mode in which the military convict is to be dealt with during the term of his intermediate custody may be contained in the same order or in several orders; and if the orders are more than one, they may be by different officers and at different times.

(10.) At any time before the military convict arrives at a penal servitude prison the discharging authority (hereafter in this section mentioned) may by order discharge the military convict.

(11.) Any one or more of the following officers shall be the committing authority for the purposes of this section; that is to say,

in India—

(*a*) the Commander-in-Chief of the forces in India;

(*b*) the Commander-in-Chief of the forces in an presidency in India;

(*c*) the Adjutant-General in India;

(*d*) the Adjutant-General in any presidency in India: and

in a colony, the officer commanding the forces in that colony; and

in any case, whether in India or in a colony, the prescribed officer.

(12.) Any one or more of the following officers shall be the removing authority for the purposes of this section; that is to say,

(*a*) any officer in this section named as the committing authority; also

(*b*) the officer commanding the military district or station where the military convict may for the time being be; also

(*c*) any other prescribed officer.

(13.) Any of the following officers shall be the discharging authority for the purposes of this section; that is to say,

(*a*) the officer who confirmed the sentence; also

(*b*) any officer in this section named as the committing authority; also

(*c*) any other prescribed officer.

Execution of sentence.

Execution of sentences of penal servitude passed in a foreign country.

60. (1.) WHERE a sentence of penal servitude is passed by a court-martial in any foreign country, the military convict on whom such sentence has been passed shall as soon as practicable be transferred to a penal servitude prison for the purpose of undergoing his sentence according to law, and, until so transferred, may be kept in military custody. See Mutiny Act, 18, 19.

(2.) The order of the committing authority (hereafter in this section mentioned) shall be a sufficient warrant for the transfer of the military convict to a penal servitude prison.

(3.) If at any time before his arrival in the United Kingdom the military convict is brought into India or any colony, he may be dealt with by the competent military authority in India or such colony in the same manner in all respects as if he had been there sentenced by court-martial to penal servitude.

(4.) The military convict may at any time before he arrives at any place in the United Kingdom, India, or any colony, be discharged by the discharging authority (hereafter in this section mentioned) having jurisdiction in any place where the military convict may for the time being be.

(5.) Any one or more of the following officers shall be the committing authority for the purposes of this section; that is to say,

(*a*) the officer commanding the army or force with which the military convict was serving at the time of his being sentenced;

(*b*) the officer who confirmed the sentence of the court;

(*c*) any other prescribed officer.

(6.) Any officer in this section named as the committing authority shall also be the discharging authority for the purposes of this section.

General provisions applicable to penal servitude.

61. A PENAL servitude prison for the purposes of the provisions of this Act relating to penal servitude means any prison or place in which a prisoner sentenced to penal servitude by a civil court in the United Kingdom can for the time being be confined, either permanently or temporarily. An "authorized prison" for the purposes of the provisions of this Act relating to penal servitude means any prison in India or any colony which the Governor-General of India or the Governor of such colony may, with the concurrence of a Secretary of State, have appointed as a prison in which military convicts may, during the period of their intermediate custody, be confined. See Mutiny Act, 18, 19, 31.

After a military convict has arrived at a penal servitude prison to undergo his sentence, he shall be dealt with in the like manner as an ordinary civil prisoner under sentence of penal servitude.

Execution of sentences of imprisonment.

62. (1.) WHERE a sentence of imprisonment is passed by court-martial or a commanding officer, the person on whom such sentence has been passed (in the provisions of this Act relating to imprisonment referred to as a military prisoner) shall undergo the term of his imprisonment either in military See Mutiny Act, 31. Art. of War 139.

custody or in a public prison, or partly in one way and partly in the other. *Execution of sentence.*

(2.) The order of the committing authority hereafter mentioned shall be a sufficient warrant for the transfer of a military prisoner to a public prison.

(3.) A military prisoner while in a public prison shall be confined, kept to hard labour, and otherwise dealt with in the like manner as an ordinary prisoner under a like sentence of imprisonment.

(4.) A military prisoner during his conveyance from place to place, or when on board ship or otherwise, may be subjected to such restraint as is necessary for his detention and removal.

(5.) The discharging authority hereafter mentioned may, at any time during the period of a military prisoner undergoing his imprisonment, by order discharge the prisoner.

(6.) The removing authority hereafter mentioned may, at any time during the period of the military prisoner undergoing his sentence in a public prison, from time to time by order provide for his being brought before a court-martial, or any civil court, either as a witness, or for trial or otherwise, and an order of such authority shall be a sufficient warrant for delivering him into military custody and detaining him in custody until he can be returned to the place from whence he is brought, or to such other place as may be determined by the removing authority.

63. [*Omitted as not applying to India.*]

64. WHERE a sentence of imprisonment is passed in India or any colony, then, for the purposes of the provisions of this Act relating to imprisonment— *Supplemental provision as to sentences of imprisonment passed in India or colony.*

(1) the expression "public prison" means any of the following prisons; that is to say—

(*a*) where the sentence was passed in India, any authorized prison in India;

(*b*) where the sentence was passed in a colony, any authorized prison in that colony;

(*c*) any such authorized prison in any part of Her Majesty's dominions other than that in which the sentence was passed as may be prescribed; and

(*d*) any public prison in the United Kingdom as above defined for the purpose of the provisions of this Act relating to imprisonment in the United Kingdom:

(2) "authorized prison" means any prison in India or any colony which the Governor-General of India or the Governor of such colony, with the concurrence of the Secretary of State, may have appointed as a prison in which military prisoners may be confined:

Execution of sentence.

(3) a military prisoner may temporarily be confined in a prison not a public prison, with the assent of the authority having jurisdiction over such prison:

(4) a military prisoner may be removed by the warrant of the committing authority or of any other prescribed authority from one public prison to another: Provided that he shall not under this section be removed from a prison in the United Kingdom to any prison elsewhere. See Mutiny Act, 31.

(5) any one or more of the following officers shall be the committing authority; that is to say,

in India—

(*a*) the Commander-in-Chief of the forces in India;

(*b*) the Commander-in-Chief of the forces in any presidency in India;

(*c*) the Adjutant-General in India; and

(*d*) the Adjutant-General in any presidency in India;

in a colony, the officer commanding the forces in that colony; and

in any case, whether in India or in a colony—

(*a*) the officer who confirmed the sentence;

(*b*) the commanding officer of the military prisoner; and

(*c*) any other prescribed officer:

(6) any of the following officers shall be the discharging authority:

(*a*) the officer commanding the military district or station in which the prisoner may be;

(*b*) any officer in this section named as a committing authority, with this exception, that the commanding officer shall only be a discharging authority where the sentence was passed by a commanding officer; and

(*c*) Any other prescribed officer;

(7) any one or more of the following officers shall be the removing authority:

(*a*) any officer in this section named as a committing authority;

(*b*) the officer commanding the military district or station where the prisoner may be; and

(*c*) any other prescribed officer.

Supplement provision as to sentences of imprisonment passed in a foreign country.

65. WHERE a sentence of imprisonment is passed by a court-martial or commanding officer in any foreign country, then if and as soon as the military prisoner on whom such sentence has been passed is brought into the United See Mutiny Act, 31.

Kingdom or India, or any colony, the provisions of this Act shall apply in the same manner in all respects as if the sentence of imprisonment had been passed in the United Kingdom, India, or any colony, as the case may be, with this addition, that the officer commanding the army or force to which the military prisoner belonged at the time of his being sentenced shall also be deemed to be a committing authority. *Execution of sentence.*

See Mutiny Act, 31.

66. THE competent military authority (hereafter in this section mentioned) may give directions for the delivery into military custody of any military prisoner for the time being undergoing his sentence of imprisonment, and the removal of such prisoner, whether with his corps or separately, to any place beyond the seas where the corps, or any part thereof, to which for the time being he belongs, is serving or under orders to serve. *Removal of prisoner to place where corps is serving.*

The directions of such competent military authority, or an order of the removing authority issued in pursuance of such directions, shall be sufficient authority for the removal of such prisoner from the prison in which he is confined, and for his conveyance in military custody to any place designated, and for his intermediate custody during such removal and conveyance.

The competent military authority may further give directions for the discharge of the prisoner either conditionally or unconditionally at any time while he is in military custody under this section.

For the purposes of this section any one or more of the following officers shall be the competent military authority:

(1) in the United Kingdom—
  (*a*) the Commander-in-Chief;
  (*b*) the Adjutant-General; and
  (*c*) any other prescribed officer:
(2) in India—
  (*a*) the Commander-in-Chief of the forces in India;
  (*b*) the Commander-in-Chief of the forces in any presidency in India;
  (*c*) the Adjutant-General in India; and
  (*d*) the Adjutant-General in any presidency in India;
(3) in a colony, the officer commanding the forces in that colony; and
(4) in any case, whether in India or in a colony, the prescribed officer.

Mutiny Act, 28. Art. of War, 138, 139.

67. THE term of penal servitude or imprisonment to which a person is sentenced by a court-martial, whether the sentence has been revised or not, and whether the prisoner is already undergoing sentence or not, shall be *Commencement of term of penal servitude or imprisonment.*

Execution of sentence.

reckoned to commence on the day on which the original sentence and proceedings were signed by the president of the court-martial.

An offender under this Act shall not be subject to imprisonment for more than two consecutive years, whether under one or more sentences.

Subject as aforesaid, where a sentence of corporal punishment is commuted to imprisonment, and the offender whose sentence is so commuted is undergoing a previous sentence of imprisonment, the commuted sentence may be directed by the commuting authority to commence at the expiration of the imprisonment under such previous sentence.

Miscellaneous.

Articles of War and Rules of Procedure.

Articles of War and Rules of Procedure.

Power of Her Majesty to make Articles of War.

68. It shall be lawful for Her Majesty to make Articles of War for the better government of officers and soldiers, and such Articles shall be judicially taken notice of by all judges and in all courts whatsoever: Provided that no person shall, by such Articles of War, be subject to suffer any punishment extending to life or limb, or to be kept in penal servitude, except for crimes which are by this Act expressly made liable to such punishment as aforesaid, or be subject, with reference to any crimes made punishable by this Act, to be punished in any manner which does not accord with the provisions of this Act.

Mutiny Act, 1. Art. of War, 189.

Power of Her Majesty to make rules of procedure.

69. Subject to the provisions of this Act Her Majesty may, by rules to be signified under the hand of a Secretary of State, from time to time make, and when made repeal, alter, or add to, provisions in respect of the following matters or any of them; that is to say,

(1) the assembly and procedure of courts of inquiry;
(2) the convening and constituting of courts-martial;
(3) the adjournment, dissolution, and sittings of courts-martial;
(4) the procedure to be observed in trials by court-martial;
(5) the confirmation and revision of the findings and sentences of courts-martial;
(6) the carrying into effect sentences of courts-martial;
(7) the forms of orders to be made under the provisions of this Act relating to courts-martial, penal servitude, or imprisonment;
(8) any matter in this Act directed to be prescribed;
(9) any other matter or thing expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial, and punishment of offences triable or punishable by military law;

Articles of War and Rules of Procedure.

Provided always, that no such rules shall contain anything contrary to or inconsistent with the provisions of this Act.

All rules made in pursuance of this section shall be judicially noticed.

All rules made in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if Parliament be not then sitting, as soon as practicable after the beginning of the then next session of Parliament.

Inquiry as to and Confession of Desertion.

Inquiry as to and confession of desertion.

Art. of War, 167.

70. WHEN any soldier has been absent without leave from his duty for a period of twenty-one days, a court of inquiry may as soon as practicable be assembled, and inquire in the prescribed manner on oath (which such court is hereby authorized to administer) respecting the fact of such absence, and the deficiency (if any) in the arms, ammunition, equipments, instruments, regimental necessaries, or clothing of the soldier, and if satisfied of the fact of such soldier having absented himself without leave or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the absent soldier shall enter in the regimental books a record of the declaration of such court.

Inquiry by court on absence of soldier.

If the absent soldier does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction by court-martial for desertion.

Art. of War, 47.

71. WHERE a soldier signs a confession that he has been guilty of desertion or of fraudulent enlistment, a competent military authority may dispense with his trial and order that, instead of being tried by a court-martial, he shall suffer the same forfeitures and the same deductions from pay (if any) as if he had been convicted by court-martial of the said offence, or such of them as may be mentioned in the order. If upon any such confession, evidence of the truth or falsehood of such confession cannot then be conveniently obtained, the record of such confession, countersigned by the commanding officer of the soldier, shall be entered in the regimental books, and such soldier shall continue to do duty in the corps in which he may then be serving, or in any other corps to which he may be transferred, until he is discharged or transferred to the reserve, or until legal proof can be obtained of the truth or falsehood of such confession.

Confession by soldier of desertion or fraudulent enlistment.

Art. of War, 46.

The competent military authority for the purposes of this section means the commander-in-chief or Adjutant-General, or, in the case of India, the commander-in-chief of the forces in India, or the commander-in-chief of the forces of any presidency in India, and in the case of a colony and elsewhere

Inquiry as to and confession of desertion.

the general or other officer commanding the forces, subject in the case of India, or a colony, or elsewhere, to any directions given by the commander-in-chief.

Provost marshal.

Provost Marshal.

Provost marshal.

72. For the prompt repression of all offences which may be committed abroad, provost marshals with assistants may from time to time be appointed by the general order of the general officer commanding a body of forces. Art. of War, 164.

A provost marshal or his assistants may at any time arrest and detain for trial persons subject to military law committing offences, and may also carry into execution any punishments to be inflicted in pursuance of a court-martial, but shall not inflict any punishment of his or their own authority.

A provost marshal attached to any forces on active service, or any of his assistants, may make a complaint to any officer in immediate command of any detachment or portion of such body of forces, against any person subject to military law who has committed any offence; and if in the opinion of such officer it is not practicable that such offence should be tried by an ordinary court-martial, it shall be lawful for him (although not authorized to convene a general court-martial) to convene a field general court-martial,[a] and such court may try summarily the person so charged, and award punishment for his offence, and the sentence of the court shall be valid, and may be carried into effect if a sentence of capital punishment when confirmed by the general or field officer commanding the force of which such detachment or portion forms part, and if not capital when confirmed by any general or field officer in such force, and records of field general courts-martial shall be kept for the same time as provided in this Act for district courts-martial.

PART II.

ENLISTMENT.

Period of service.

Period of Service.

Limit of original enlistment.

73. A person may be enlisted to serve Her Majesty as a soldier of the 33 & 34 Vict. c. 67. ss. 2, 3.

[a] So much of section 72 as relates to field general courts-martial is repealed by 44 Vic., c. 9, s. 6. As to the abolition of corporal punishment, see note on p. 1079.

regular forces for a period of twelve years, or for such less period as may be from time to time fixed by Her Majesty, but not for any longer period, and the period for which a person enlists is in this Act referred to as the term of his original enlistment. *Period of service.*

33 & 34 Vict. c. 67. s. 3.

74. THE original enlistment of a person under this Act shall be as follows, either— *Terms of original enlistment.*

(1) for the whole of the term of his original enlistment in army service; or

(2) for such portion of the term of his original enlistment as may be from time to time fixed by a Secretary of State, and specified in the attestation paper, in army service, and for the residue of the said term in the reserve.

75. A SECRETARY of State may from time to time, by general or special regulations, vary the conditions of service, so as to permit a soldier of the regular forces in army service, with his assent, either— *Change of conditions of service.*

(1) to enter the reserve at once for the residue unexpired of the term of his original enlistment; or

(2) to extend his army service for all or any part of the residue unexpired of such term:

(3) to extend the term of his original enlistment up to the period of twelve years.

A Secretary of State may from time to time by general or special regulations vary the conditions of service so as to permit a man in the reserve, with his assent, to re-enter upon army service for all or any part of the residue unexpired of the term of his original enlistment, or for any period of time not exceeding twelve years in the whole from the date of his original enlistment.

See old rules in 33 & 34 Vict. c. 67. s. 2. Mutiny Act, 50. Art. of War, 47, 172.

76. IN reckoning the service of a soldier of the regular forces for the purpose of discharge or of transfer to the reserve— *Reckoning and forfeiture of service.*

(1) the service shall begin to reckon from the date of his attestation, but

(2) where a soldier of the regular forces has been guilty of any of the following offences:

(*a*) desertion from Her Majesty's service, or

(*b*) fraudulent enlistment;

then either upon his conviction by court-martial of the offence, or (if having confessed the offence, he is liable to be tried) upon his trial being dispensed with by order of the competent military authority, the whole of his prior service shall be forfeited, and he shall be liable to serve as a soldier of the regular forces for the

Period of service.

term of his original enlistment, reckoned from the date of such conviction or such order dispensing with trial, in like manner as if he had been originally attested at that date: Provided that a Secretary of State may restore all or any part of the service forfeited under this section to any soldier who may perform good and faithful service, or may otherwise be deemed by such Secretary of State to merit such restoration of service, or may be recommended for such restoration of service by a court-martial.

Proceedings for enlistment.

Proceedings for Enlistment.

Mode of enlistment and attestation.

77. EVERY person authorized to enlist recruits in the regular forces (in this Act referred to as the "recruiter") shall give to every person offering to enlist a notice in the form for the time being authorized by a Secretary of State, stating the general requirements of attestation and the general conditions of the contract to be entered into by the recruit, and directing such person to appear before a justice of the peace at the time and place therein mentioned.

Upon the appearance before a justice of the peace of a person offering to enlist, the justice shall ask him whether he assents to be enlisted, and shall not proceed with the enlistment if he considers the recruit under the influence of liquor.

If he does not appear before a justice, or on appearing does not assent to be enlisted, no further proceedings shall be taken.

If he assents to be enlisted—

(1) the justice, after cautioning such person that if he makes any false answer to the questions read to him he will be liable to be punished as provided by this Act, shall read or cause to be read to him the questions set forth in the attestation paper for the time being authorized by a Secretary of State, and shall take care that such person understands each question so read, and after ascertaining that the answer of such person to each question has been duly recorded opposite the same in the attestation paper, shall require him to make and sign the declaration as to the truth of those answers set forth in the said paper, and shall then administer to him the oath of allegiance contained in the said paper:

(2) upon signing the declaration and taking the oath, such person shall be deemed to be enlisted as a soldier of Her Majesty's regular forces:

Proceedings for enlistment.

(3) the justice shall attest by his signature, in manner required by the said paper, the fulfilment of the requirements so as to attesting a recruit, and shall deliver the attestation paper, duly dated, to the recruiter:

(4) the fee for the attestation of a recruit, and for all acts and things incidental thereto, shall be one shilling and no more, and shall be paid to the clerk of the justice:

(5) the officer who finally approves of a recruit for service shall, at his request, furnish him with a certified copy of his attestation paper.

The date at which the recruit signs the declaration and takes the oath in this section in that behalf mentioned shall be deemed to be the date of the attestation of such recruit.

The competent military authority, if satisfied that there is any error in he attestation paper of a recruit, may cause the recruit to attend before some justice of the peace, and that justice, if satisfied that such error exists, and is not so material as to render it just that the recruit should be discharged, may amend the error in the attestation paper, and the paper as amended shall thereupon be deemed as valid as if the matter of the amendment had formed part of the original matter of such paper.

Power of recruit to purchase discharge.

78. If a recruit within three months after the date of his attestation pays for the use of Her Majesty a sum not exceeding ten pounds, he shall be discharged, unless he claims such discharge during a period when the soldiers in the reserve are required by a proclamation of Her Majesty in pursuance of this Act to continue in or re-enter upon army service, in which case he may be retained in Her Majesty's service during that period, and at the termination thereof shall, if he so require it, on the payment then of the said sum, be discharged.

Appointment to Corps and Transfers.

Appointment to corps and transfers.

33 & 34 Vict. c. 67. s. 6. Mutiny Act, 103.

Enlistment for general service and appointment to corps.

79. Recruits may, in pursuance of any general or special regulations from time to time made by a Secretary of State, be enlisted for service in particular corps of the regular forces, but save as is provided by such regulations, if any, recruits shall be enlisted for general service.

The competent military authority shall as soon as practicable appoint a recruit, if enlisted for service in a particular corps, to that corps, and if enlisted for general service, to some corps of the regular forces.

33 & 34 Vict. c. 67. s. 7.

Effect of appointment to a corps and provision for transfers.

80. A soldier of the regular forces, whether enlisted for general service or not, when once appointed to a corps, shall serve in that corps for the period of his army service, whether during the term of his original enlistment or

Appointment to corps and transfers.

during the period of such re-engagement as is in this Act mentioned, unless transferred under the following provisions:

(1.) A soldier of the regular forces enlisted for general service may within three months after the date of his attestation be transferred to any corps of the regular forces of the same arm or branch of the service by order of the competent military authority.

(2.) A soldier of the regular forces may at any time with his own consent be transferred by order of the competent military authority to any corps of the regular forces. Mutiny Act, 53, 54.

(3.) Where a soldier of the regular forces is in pursuance of any of the foregoing provisions transferred to a corps in an arm or branch different from that in which he was previously serving, the competent military authority may by order vary the conditions of his service so as to correspond with the general conditions of service in the arm or branch to which he is transferred.

(4.) A soldier of the regular forces in any branch of the service may be transferred by order of the competent military authority to any corps of the same branch which is serving in the United Kingdom in either of the following cases— 33 & 34 Vict. c. 67. s. 7.

(*a*) when he has been invalided from service beyond the seas; or

(*b*) when, in the case of his corps or the part thereof in which he is serving being ordered on service beyond the seas, he is either unfit for such service by reason of his health, or is within two years from the end either of the period of his army service in the term of his original enlistment, or of such re-engagement as is in this Act mentioned.

(5.) Where a soldier of the regular forces in any branch of the service, who is enlisted to serve part of the term of his original enlistment in the reserve, is on service beyond the seas, and at the time of his corps or the part thereof in which he is serving being ordered to another station or to return home, has more than two years of his army service in the term of his original enlistment unexpired, he may be transferred by order of the competent military authority to any corps of the same branch which is on service beyond the seas: Provided that the power of transfer given by sub-section five of this section shall not apply to any man who has extended his army service for the residue unexpired of his term of twelve years, or to any man who has re-engaged. 33 & 34 Vict. c. 67. s. 7.

(6.) Where a soldier of the regular forces has been transferred to serve, either as a warrant officer not holding an honorary commission, or in the corps of armourer sergeants, or in the army hospital corps, or in the army service Mutiny Act, 54.

corps, or on the staff, or in the corps of mounted military police, or in any corps not being a corps of infantry, cavalry, artillery, or engineers, he may by order of the competent military authority, either during the term of his original enlistment or during the period of his re-engagement, be removed from such service and transferred to any corps of the regular forces serving in the United Kingdom, or to any corps of the regular forces serving on the station beyond the seas on which he is serving at the time of his removal, or to the corps of the regular forces in which he was serving prior to such first-mentioned transfer, either in the rank he holds at the time of his removal or any lower rank. *Appointment to corps and transfers.*

(7.) Where a soldier of the regular forces—

Mutiny Act, 54. Art. of War, 42, 47.

(*a*) has been guilty of the offence of desertion from Her Majesty's service or of fraudulent enlistment, and has either been convicted of the same by a court-martial, or having confessed the offence, is liable to be tried, but his trial has been dispensed with by order of the competent military authority; or

(*b*) has been sentenced by a court-martial for any offence to a punishment not less than imprisonment for a term of six months,

such soldier shall be liable, in commutation wholly or partly of other punishment, to general service, and may from time to time be transferred to such corps of the regular forces as the competent military authority may from time to time order.

Mutiny Act, 34, 36.

(8.) A soldier of the regular forces committed by a court of summary jurisdiction in any part of Her Majesty's dominions as a deserter shall be liable to be transferred by order of the competent military authority to any corps of the regular forces near to the place where he is committed, or to any other corps to which the competent military authority think it desirable to transfer him, and to serve in the corps to which he is so transferred without prejudice to his subsequent trial and punishment.

Re-engagement and Prolongation of Service.

Re-engagement and prolongation of service.

33 & 34 Vict. c. 67. s. 8.

81. SUBJECT to any general or special regulations from time to time made by a Secretary of State, a soldier of the regular forces in army service may, at any time within three years of the completion of his term of army service, on the recommendation of his commanding officer, and with the approval of the competent military authority, be re-engaged for such further period of army service as will make up a total continuous period of twenty-one years of army service, reckoned from the date of his attestation, and inclusive of any period previously served in the reserve. *Re-engagement of soldiers.*

Mutiny Act, 55.

A soldier of the regular forces during his period of re-engagement shall

See Mutiny Act, 50.

Re-engagement and prolongation of service.

be liable to forfeit his previous service during such period of re-engagement in like manner as he is liable under this part of this Act during the term of his original enlistment.

A soldier of the regular forces who so re-engages shall make before his commanding officer a declaration in accordance with any general or special regulations from time to time made by a Secretary of State.

Continuance in service after twenty-one years service.

82. A SOLDIER of the regular forces who has completed, or will within one year complete, a total period of twenty-one years service, inclusive of any period served in the reserve, may give notice to his commanding officer of his desire to continue in Her Majesty's service in the regular forces; and if the competent military authority approve he may be continued as a soldier of the regular forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged. 33 & 34 Vict. c. 67. s. 10. Mutiny Act, 55.

Prolongation of service in certain cases.

83. WHERE the time at which a soldier of the regular forces would otherwise be entitled to be discharged occurs while a state of war exists between Her Majesty and any foreign power, or while such soldier is on service beyond the seas, or while soldiers in the reserve are required by a proclamation in pursuance of this Act to continue in or re-enter upon army service, the soldier may be detained, and his service may be prolonged for such further period, not exceeding twelve months, as the competent military authority may order; but at the expiration of that period, or any earlier period at which the competent military authority considers his services can be dispensed with, the soldier shall as provided by this Act be discharged. 33 & 34 Vict. c. 67. s. 11.

Where the time at which a soldier of the regular forces would otherwise be entitled to be transferred to the reserve occurs while a state of war exists between Her Majesty and any foreign power, or while such soldier is on service beyond the seas, the soldier may be detained in army service for such further period, not exceeding twelve months, as the competent military authority may order, but at the expiration of that period, or any earlier period at which the competent military authority consider his services can be dispensed with, the soldier shall be sent to the United Kingdom for the purpose of being transferred to the reserve.

If a soldier required under this section to be discharged or sent to the United Kingdom desires, while a state of war exists between Her Majesty and any foreign power, to continue in Her Majesty's service, and the competent military authority approve, he may agree to continue as a soldier of the regular forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the end of such state

of war, or, if it is so provided by such agreement, at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged.

Re-engagement and prolongation of service.

33 & 34 Vict. c. 67. s. 5.

84. It shall be lawful for Her Majesty in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament, if Parliament be then sitting, or if Parliament be not then sitting, declared by proclamation in pursuance of an Order of Her Majesty in Council, to direct from time to time that all persons enlisted under this Act, or all or any persons so enlisted in any particular year or years, shall at any time during their respective terms of original enlistment, if in army service continue in, and if in the reserve re-enter upon, army service for such periods from time to time as Her Majesty may from time to time determine: so, however, that any such person shall not be required under this section to continue or re-enter upon army service for a period exceeding in the whole the term of his original enlistment and the period during which his service may be prolonged under the foregoing provisions of this Act: and every person to whom such direction applies shall obey the same as if it were enacted in this Act.

In imminent national danger, Her Majesty may continue soldiers in or require soldiers to re-enter army service.

When a soldier transferred to the reserve is directed under this section to re-enter upon army service, the competent military authority may appoint him to any corps of the regular forces in that branch of the service in which he previously served.

Discharge and Transfer to Reserve Force.

Discharge and transfer to reserve force.

85. In the following cases; that is to say,

(1) where a soldier of the regular forces has been invalided from service beyond the seas; or

(2) where a corps to which a soldier of the regular forces belongs, or the part thereof in which he is serving, is ordered on service beyond the seas, and the soldier is either unfit for such service by reason of his health, or is within two years of the end of the period of his army service in the term of his original enlistment;

Transfer of soldier to reserve when corps ordered abroad.

the competent military authority may by order transfer him to the reserve in like manner as if the period of his actual service were specified in his attestation-paper as the portion of the term of his original enlistment which was to be spent in army service.

& 31 Vict. 34. s. 7. & 34 Vict. 67. s. 13.

86. Save as otherwise provided by this Act or the Acts relating to the reserved forces, every soldier of the regular forces upon the completion of the term of his original enlistment, or of the period of his re-engagement, shall be discharged.

Discharge or transfer to reserve.

Discharge and transfer to reserve force.

Where a soldier of the regular forces enlisted in the United Kingdom is, when entitled to be discharged, serving beyond the seas, he shall, if he so requires, be sent to the United Kingdom, and in such case shall be sent there free of expense, with all convenient speed, and on his arrival shall be discharged. If such soldier is permitted, at his request, to stay at the place where he is serving, he shall not afterwards have any claim to be sent at the public expense to the United Kingdom or elsewhere. 33 & 34 Vict. c. 67. s. 11. 30 & 31 Vict. c. 34. s. 5.

Every soldier of the regular forces upon the completion of the period of his army service, if shorter than the term of his original enlistment, shall be transferred to the reserve, but until so transferred shall be subject to this Act as a soldier of the regular forces. 33 & 34 Vict. c. 67. ss. 11, 13.

Where a soldier of the regular forces, when entitled to be transferred to the reserve, is serving beyond the seas, he shall be sent to the United Kingdom free of expense with all convenient speed, and on his arrival shall be transferred to the reserve. 33 & 34 Vict. c. 67. s. 11.

A soldier of the regular forces who is discharged or transferred to the reserve shall receive the cost of his conveyance from the place in the United Kingdom where he is discharged or transferred to the place in which he appears from his attestation paper to have been attested, or to any nearer place at which he may at the time of his discharge or transfer decide to take up his residence. Mutiny Act, 75.

Delivery of lunatic soldier on discharge with his wife or child at workhouse, or of dangerous lunatic at asylum.

87. A SECRETARY of State may, if he think proper, on account of a soldier's lunacy, cause any soldier of the regular forces on his discharge, and his wife and child, or any of them, to be sent to the parish or union to which under the statutes for the time being in force he appears, from the statements made in his attestation paper and other available information, to be chargeable; and such soldier, wife, or child, if delivered after reasonable notice, in England or Ireland at the workhouse in which persons settled in such parish or union are received, and in Scotland to the inspector of poor of such parish shall be received by the master or other proper officer of such workhouse or such inspector of poor, as the case may be: Mutiny Act, 92.

Provided that a Secretary of State, where it appears to him that any such soldier is a dangerous lunatic, and is in such a state of health as not to be liable to suffer bodily or mental injury by his removal, may, by order signified under his hand or under the hand of an under-secretary, send such soldier direct to an asylum, registered hospital, licensed house, or other place in which pauper lunatics can legally be confined; and for the purpose of the said order the above-mentioned parish or union shall be deemed to be the parish or union from which such soldier is sent.

In England the lunatic shall be sent to the asylum, hospital, house, or

Discharge and transfer to reserve force.

place to which a person in the workhouse aforesaid, on becoming a dangerous lunatic, can by law be removed; and an order of the Secretary of State under this section shall be of the same effect as an order by a justice within the meaning of section seventy-two of the Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-seven, intituled "An Act to consolidate and amend the laws for the provision and regulation of lunatic asylums for counties and boroughs, and for the maintenance and care of pauper lunatics in England," and shall be subject accordingly to the provisions of that section.

16 & 17 Vict. c. 97. s. 72.

The Secretary of State, before making the said order in respect of a lunatic who is liable to be delivered to the inspector of poor of a parish in Scotland, may require the inspector of poor of that parish to specify the asylum to which such lunatic if in the parish would be sent, and it shall be the duty of such inspector forthwith to specify such asylum, and thereupon the Secretary of State may make the said order for sending the lunatic to that asylum, and such order shall be of the same effect as an order by the sheriff within the meaning of section eighty-five of the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-one, intituled "An Act for the regulation of, and care and treatment of lunatics, and for the provision, maintenance, and regulation of lunatic asylums in Scotland," and shall be subject accordingly to the provisions of that section.

20 & 21 Vict. c. 71. s. 85.

In the case of any such lunatic, who is liable to be delivered at a workhouse in Ireland, at which persons settled in the said parish are received, a Secretary of State may, by order under his hand, send such soldier to the asylum of the district in which such parish is situate, and such order shall be of the same effect as a warrant under the hands and seals of two justices given under the provisions of the tenth section of the Act of the session of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter one hundred and eighteen, intituled "An Act to provide for the appointment of the officers and servants of district lunatic asylums in Ireland, and to alter and amend the law relating to the custody of dangerous lunatics and dangerous idiots in Ireland."

30 & 31 Vict. c. 118. s. 10.

88. A SOLDIER of the regular forces shall not be discharged from those forces, unless by sentence of court-martial with ignominy, or by order of the competent military authority, or by authority direct from Her Majesty.

See Art. of War, 21 to 23.

Regulations as to discharge of soldiers.

Every soldier of the regular forces who is discharged, for whatever reason he is discharged, shall receive a certificate of discharge, stating his service, conduct, and character, and the cause of his discharge, and until duly discharged shall be subject to this Act.

Authorities to enlist and attest recruits.

Authorities to enlist and attest Recruits.

Regulations as to persons to enlist and enlistment of soldiers.

89. A SECRETARY of State may from time to time by general or special order make, and when made revoke and alter, such regulations, give such directions, and issue such forms as he may think necessary or expedient, respecting the persons authorized to enlist recruits for Her Majesty's regular forces, and for the purpose of such enlistment, and generally for carrying this part of this Act into effect, and any such order shall be of the same effect as if enacted in this Act. See Mutiny Act, 80. 33 & 34 Vic c. 67. s. 16.

Justices of the peace for the purposes of enlistment.

90. FOR the purposes of the attestation of soldiers in pursuance of this part of this Act,

(1) any justice of the peace may act as such justice, provided he is within the county, borough, or place of which he is justice: (1,) Mutiny Act, 49.

(2) every person exercising the office of a magistrate in India or a colony, and also each of the following persons, shall have the authority of a justice of the peace; that is to say, (2,) Mutiny Act, 52.

in India, any person duly authorized in that behalf by the Governor General; and in the territories of any native state in India, the person performing the duties of the office of British resident therein, or any other person authorized in that behalf by the Governor General of India; and

in a colony, any person duly authorized in that behalf by the Governor of the colony; and

beyond the limits of the United Kingdom, India, and a colony, any British consul general, consul, or vice consul, or person duly exercising the authority of a British consul:

An officer while subject to military law shall not act as a justice of the peace for the purpose of the attestation of soldiers in pursuance of this part of this Act, except officers of militia while the regiments to which they belong are disembodied. Mutiny Act, 44, 52.

Special provisions as to persons to be enlisted.

Special Provisions as to Persons to be Enlisted.

Enlistment of foreigners and negroes.

91. ANY person who is for the time being an alien may, if Her Majesty think fit to signify her consent through a Secretary of State, be enlisted in Her Majesty's regular forces, so however that the number of aliens serving together at any one time in any corps of the regular forces shall not exceed the proportion of one alien to every fifty British subjects, and that an alien so enlisted shall not be capable of holding any higher rank in Her Majesty's regular forces than that of a warrant officer or non-commissioned officer. 7 Wm. 4. & 1 Vict. c. 29. s. 2.

Mutiny Act, 56.

Provided that every negro or person of colour who, although born out of Her Majesty's dominions, has voluntarily enlisted in pursuance of this part of this Act shall while serving in Her Majesty's regular forces be deemed to be legally enlisted, and to be entitled to all the privileges of a natural-born British subject. *Special provisions as to persons to be enlisted.*

Mutiny Act, 57, 58.

92. THE master of an apprentice in the United Kingdom who has been attested as a soldier of the regular forces may claim him while under the age of twenty-one years as follows, and not otherwise: *Claims of masters to apprentices.*

(1) the master, within one month after the apprentice left his service, must take before a justice of the peace the oath in that behalf specified in the Second Schedule to this Act, and obtain from the justice a certificate of having taken such oath, which certificate the justice shall give in the form in the said schedule, or to the like effect:

(2) a court of summary jurisdiction within whose jurisdiction the apprentice may be, if satisfied on complaint by the master that he is entitled to have the apprentice delivered up to him, may order the officer under whose command the apprentice is to deliver him to the master, but if satisfied that the apprentice stated on his attestation that he was not an apprentice may, and if required by or on behalf of the said commanding officer shall, try the apprentice for the offence of making such false statement, and if need be may adjourn the case for the purpose:

(3) except in pursuance of an order of a court of summary jurisdiction, an apprentice shall not be taken from Her Majesty's service:

(4) an apprentice shall not be claimed in pursuance of this section unless he was bound for at least four years by a regular indenture, and was under the age of sixteen years when so bound:

(5) a master who gives up the indenture of his apprentice within one month after the attestation of such apprentice shall be entitled to receive to his own use so much of the bounty (if any) payable to such apprentice on enlistment as has not been paid to the apprentice before notice was given of his being an apprentice.

Mutiny Act, 57, 58.

93. THE provisions of this part of this Act with respect to apprentices shall apply to a person who at the time of his attestation is an indentured labourer in a colony, with these qualifications, that such indentured labourer, if imported at the expense of the employer or of the colony in consideration of the indenture under which he is serving, may be claimed although above the age of twenty-one years, and though bound for a less period or at an older age than is above specified. *Application of apprentice provisions to indentured labourers.*

Offences as to enlistment.

Offences as to Enlistment.

Penalty on unlawful recruiting.

94. If a person without due authority— Mutiny Act, 80.

(1) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for Her Majesty's regular forces, or in relation to recruits for such forces; or

(2) opens or keeps any house, place of rendezvous, or office as connected with the recruiting of such forces; or

(3) receives any person under any such advertisement as aforesaid; or

(4) directly or indirectly interferes with the recruiting service of such forces;

he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Recruits punishable for false answers.

95. If a person knowingly makes a false answer to any question contained in the attestation paper, and read or put to him by or by direction of the justice before whom he appears for the purpose of being attested, he shall be liable on summary conviction to be imprisoned with or without hard labour for any period not exceeding three months. Mutiny Act, 46, 47, 57.

If a person guilty of an offence under this section has been attested as a soldier of the regular forces, he shall be liable, at the discretion of the competent military authority, to be proceeded against before a court of summary jurisdiction, or to be tried by court-martial for the offence. Mutiny Act, 48.

Compulsory service of fraudulent enlister.

96. Where a soldier is guilty of fraudulent enlistment, then, on conviction by court-martial, or where he has confessed, upon his trial being dispensed with by order of the competent military authority, he may, whether punished or not, be compelled, according as the competent military authority directs, to serve either in accordance with the terms of his attestation upon such fraudulent enlistment, or in accordance with the terms of any prior attestation or enrolment. See Mutiny Act, 50. 26 & 27 Vict. c. 65. s. 3. 38 & 39 Vict. c. 69. ss. 74, 75.

Miscellaneous as to enlistment.

Miscellaneous as to Enlistment.

Validity of attestation and enlistment or re-engagement.

97. Where a person after his attestation on his enlistment, or the making of his declaration on re-engagement, has received pay as a soldier of the regular forces during three months, he shall be deemed to have been duly attested and enlisted or duly re-engaged, as the case may be, and shall not be entitled to claim his discharge on the ground of any error or illegality in his enlistment, attestation, or re-engagement, or on any other ground whatsoever, save as authorized by this Act, and, if within the said three months such person claims his discharge, any such error or illegality or other ground shall not until such person is discharged in pursuance of his claim affect his Mutiny Act, 59.

position as a soldier in Her Majesty's service, or invalidate any proceedings, act, or thing taken or done prior to such discharge. *Miscellaneous as to enlistment.*

Where a person not attested or re-engaged is in pay as a soldier in any corps of Her Majesty's regular forces, such person shall be deemed for all the purposes of this Act to be a soldier of the regular forces as if duly attested or re-engaged, with this qualification, that he may at any time claim his discharge, but until he so claims and is discharged in pursuance of that claim he shall be subject to this Act as a soldier of the regular forces duly attested under this Act.

Where a person claims his discharge on the ground that he has not been attested or re-engaged or not duly attested or re-engaged, his commanding officer shall forthwith forward such claim to the competent military authority, who shall as soon as practicable submit it to a Secretary of State, and if the claim appears well grounded the claimant shall be discharged.

98. ANY act or thing authorized or required by this part of this Act to be done by, to, or before the competent military authority may be done by, to, or before the commander-in-chief or the adjutant-general, or any officer prescribed in that behalf. Definition for purposes of Part Two of competent military authority and reserve.

For the purposes of this part of this Act the expression "reserve" means the first class of the army reserve force.

PART III—[*Omitted as not applying to India.*]

PART IV.

GENERAL PROVISIONS.

Supplemental Provisions as to Courts-martial.

Supplemental provisions as to courts-martial.

119. (1.) HER Majesty may, subject to the provisions of this Act, by any warrant or warrants under Her Sign Manual, in such form as Her Majesty may from time to time direct, from time to time— Royal warrant required for convening and confirming general courts-martial.

Mutiny Act, &c.

(*a*) convene or authorize any qualified officer to convene a general court-martial for the trial under this Act of any person subject to military law; and

(*b*) give a general authority to any qualified officer to convene general courts-martial for the trial, under this Act, of such persons subject

Supplemental provisions as to courts-martial.

to military law as may for the time being be under or within the territorial limits of his command; and

(*c*) empower any qualified officer to delegate, to any officer under his command not below the degree of field officer, a general authority to convene general courts-martial for the trial, under this Act, of such persons subject to military law, as are for the time being under or within the territorial limits of his command; and

(*d*) reserve for confirmation by Her Majesty, or empower any qualified officer to confirm, the findings and sentences of general courts-martial; and

(*e*) empower any officer for the time being authorized to confirm the findings and sentences of general courts-martial to reserve for confirmation findings or sentences of general courts-martial, or to delegate a power of confirming such findings or sentences to any officer under his command not below the degree of field officer; and

(*f*) revoke any warrant for the time being in force, or any part of any warrant, leaving the remainder in full force:

Provided that where it appears to Her Majesty that in any place out of the United Kingdom, where no field officer is for the time being in command, hardship would be inflicted on persons accused of offences by reason of there being no means of speedily trying such persons for offences, a warrant under this section may empower an officer to delegate to an officer not below the degree of captain any authority and power authorized under this section to be delegated to a field officer.

(2.) The same officer may or may not be appointed convening and confirming officer.

(3.) The power of convening general courts-martial, and of confirming the findings and sentences of general courts-martial, or either of such powers, may be granted subject to such restrictions, reservations, exceptions, and conditions as to Her Majesty may seem meet, and when delegated by any officer empowered in that behalf may, subject to the provisions of any warrant granting him such power, be delegated subject to such restrictions, reservations, exceptions, and conditions as to such officer may seem fit.

(4.) Warrants under this section may be addressed to officers by name or by designation of their offices, or partly in one way and partly in the other, and any warrant may or may not, according to the terms of such warrant and the mode in which the same is addressed, be limited to an officer named, or be extended to a person for the time being performing the duties of the office named, or be extended to the successors in command of an officer.

(5.) Any warrant of Her Majesty issued in pursuance of this section

shall be of the same force as if the provisions thereof were enacted by this Act. *Supplemental provisions as to courts-martial.*

(6.) "Qualified officer" for the purposes of this Act, in so far as it relates to convening or confirming the findings and sentences of general courts-martial, means the Commander-in-Chief and any officer not below the rank of a field officer commanding for the time being any body of the regular forces either within or without Her Majesty's dominions; it also includes the Lord Lieutenant of Ireland, the Governor-General of India, and a Governor of any colony on whom the command of any body of regular forces may be conferred by Her Majesty.

Mutiny Act, 6. See Art. of War, 110.

120. (1.) ANY officer or person authorized by warrant of Her Majesty to convene general courts martial may— *Authority of officer empowered to convene general courts-martial required for convening and confirming district courts-martial.*

(*a*) convene a district court-martial for the trial under this Act of any person under his command who is subject to military law; and

(*b*) empower any person under his command not below the rank of captain to convene a district court-martial for the trial under this Act of any person under the command of such last-mentioned officer who is subject to military law; and

(*c*) confirm the finding and sentence of any district court-martial, or empower any officer whom he has power to authorize to convene district courts-martial to confirm the finding or sentence of any district court-martial.

(2.) The same officer may or may not be appointed convening and confirming officer under this section.

(3.) The power of convening, and of confirming the findings and sentences of, district courts-martial, or either of such powers, may be granted under this section, subject to such restrictions, reservations, exceptions, and conditions as to the officer granting such power may seem meet.

(4.) Any authority under this section for convening district courts-martial may be addressed to an officer by name or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which the same is addressed, be limited to an officer named, or be extended to a person holding for the time being or performing the duties of the office, or be extended to the successors in command of such officer.

Art. of War. 157, 158.

Naval Discipline Act, 69.

121. ANY person tried by a court-martial shall be entitled, on demand, at any time in the case of a general court-martial within seven years, and in the case of any other court-martial within three years after the confirmation of the finding and sentence of the court, to obtain from the officer or person having the custody of proceedings of such court a copy thereof, including the *Right of person tried to copy of proceedings of court-martial.*

Supplemental provisions as to courts-martial.

proceedings with respect to the revision and confirmation thereof, upon payment for the same at the prescribed rate, not exceeding two pence for every folio of seventy-two words, and for the purposes of this section the proceedings of courts-martial shall be preserved in the prescribed manner.

Summoning and privilege of witnesses at courts-martial.

122. EVERY person required to give evidence before a court-martial may be summoned or ordered to attend in the prescribed manner. Mutiny Act, 13.

Every person attending in pursuance of such summons or order as a witness before any court-martial shall, during his necessary attendance in or on such court, and in going to and returning from the same, have the same privilege from arrest as he would have if he were a witness before a superior court of civil jurisdiction. Art. of War 153.

Misconduct of civilian at court-martial.

123. WHERE any person who is not subject to military law commits any of the following offences; that is to say,

(1) on being duly summoned as a witness before a court-martial, and after payment or tender of the reasonable expenses of his attendance, makes default in attending; or

(2) being in attendance as a witness—

(*a*) refuses to take an oath legally required by a court-martial to be taken; or

(*b*) refuses to produce any document in his power or control legally required by a court-martial to be produced by him; or

(*c*) refuses to answer any question to which a court-martial may legally require an answer,

the president of the court-martial may certify the offence of such person under his hand to any court of law in the part of Her Majesty's dominions where the offence is committed which has power to punish witnesses if guilty of like offences in that court, and that court may thereupon inquire into such alleged offence, and after examination of any witnesses that may be produced against or for the person so accused, and after hearing any statement that may be offered in defence, if it seem just, punish such witness in like manner as if he had committed such offence in a proceeding in that court.

Where a person not subject to military law when examined on oath or solemn declaration before a court-martial wilfully gives false evidence, he shall be liable on indictment or information to be convicted of and punished for the offence of perjury, or the offence by whatever name called in the part of Her Majesty's dominions in which the offence is tried which, if committed in England, would be perjury. Mutiny Act, 96.

Where a person not subject to military law is guilty of any contempt towards a court-martial, by using insulting or threatening language, or by causing any interruption or disturbance in its proceedings, or by printing observa- Art. of War, 161.

tions or using words calculated to influence the members of or witnesses before such court, or to bring such court into disrepute, the president of the court-martial may certify the offence of such person, under his hand, to any court of law in the part of Her Majesty's dominions where the offence is committed which has power to commit for contempt, and that court may thereupon inquire into such alleged offence, and after hearing any witnesses that may be produced against or on behalf of the person so accused, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of such person in like manner as if he had been guilty of contempt of that court.

Supplemental provisions as to courts-martial.

Mutiny Act, 101.

124. A COURT-MARTIAL under this Act shall not, as respects the conduct of its proceedings, or the reception or rejection of evidence, or as respects any other matter or thing whatsoever, be subject to the provisions of the Indian Evidence Act, 1872, or to any Act, law, or ordinance of any legislature whatsoever other than the Parliament of the United Kingdom.

Court-martial governed by English law only.

125. THE rules of evidence to be adopted in proceedings before courts-martial shall be the same as those which are followed in civil courts; and no person shall be required to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court.

Rules of evidence to be the same as in civil courts.

Naval Discipline Act, ss. 68, 80.

126. WHERE it appears on the trial by court-martial of a person charged with an offence that such person is by reason of insanity unfit to take his trial, the court shall find specially that fact; and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known, or until any earlier time at which such person is fit to take his trial.

Provision in case of insane persons.

Where on the trial by court-martial of a person charged with an offence it appears that such person committed the offence, but that he was insane at the time of the commission thereof, the court shall find specially the fact of his insanity, and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known.

In either of the above cases Her Majesty may give orders for the safe custody of such person during her pleasure, in such place and in such manner as Her Majesty thinks fit.

A finding under this section shall be subject to confirmation in like manner as any other finding.

If a person imprisoned by virtue of this Act becomes insane, then, without prejudice to any other provision for dealing with such insane prisoner, a Secretary of State in any case, and in the case of a prisoner confined in India the Governor General of India, or the Governor of any presidency in

Supplemental provisions as to courts-martial.

which the person is confined, and in the case of a prisoner confined in a colony the Governor of that colony, may, upon a certificate of such insanity by two qualified medical practitioners, order the removal of such prisoner to an asylum or other proper place for the reception of insane persons in the United Kingdom, India, or the colony, according as the prisoner is confined in the United Kingdom, India, or the colony, there to remain for the unexpired term of his imprisonment, and, upon such person being certified in the like manner to be again of sound mind, may order his removal to any prison in which he might have been confined if he had not become insane, there to undergo the remainder of such punishment.

General provisions as to prisons.

General Provisions as to Prisons.

Arrangements with Indian and colonial governments as to prisons.

127. A SECRETARY of State may from time to time make arrangements with the Governor General of India or the Governor of a colony for the reception in any prison in India or in such colony of prisoners under this Act, and of deserters or absentees without leave from Her Majesty's service, on payment of such sums as are provided by the arrangement, and the governor of any prison to which any such arrangement relates shall be under the same obligation as the governor of a prison in the United Kingdom to receive and detain such prisoners, deserters, and absentees without leave: Provided that where a prisoner has been sentenced in India or in a colony to a term of imprisonment exceeding twelve months, or to a term of penal servitude, he shall be transferred as soon as practicable to a prison or convict establishment within the United Kingdom, unless in the case of imprisonment the court shall for special reasons otherwise order, there to undergo his sentence.

Duty of governor of prison to receive prisoners, deserters, and absentees without leave.

128. THE governor of every prison in the United Kingdom, and the governor of every prison in India or a colony who is under the same obligation as the governor of a prison in the United Kingdom, shall receive and confine, until discharged or delivered over in due course of law, all prisoners sent to such prison in pursuance of this Act, and every person delivered into his custody as a deserter or absentee without leave by any person conveying him under legal authority, on production of the warrant of a court of summary jurisdiction on which such deserter or absentee without leave has been taken or committed, or of some order from a Secretary of State, or from the Governor General of India, or the Governor of a colony, which order shall continue in force until the deserter or absentee without leave has arrived at his destination. Mutiny Act, 30, 35.

The provisions of this section with respect to the governor of a prison in the United Kingdom shall apply to a person having charge of any police station or other place in which prisoners may legally be confined.

Military prisons.

Military Prisons.

Mutiny Act, 29, and see 83.

Establishment and regulation of military prisons.

129. It shall be lawful for a Secretary of State, and in India for the Governor General, to set apart any building or part of a building under the control of the Secretary of State or Governor General as a military prison, or as a public prison for the imprisonment of military prisoners, and to declare that any such building or part of a building shall be a military prison, or a public prison, as the case may be, and every military prison so declared shall be deemed to be a public prison within the meaning of the provisions of this Act relating to imprisonment, and if such prison is in India shall be deemed to be an authorized prison.

It shall be lawful for a Secretary of State, and in India for the Governor General, from time to time to make, alter, and repeal rules for the government, management and regulation of military prisons, and for the appointment and removal and powers of inspectors, visitors, governors, and officers thereof, and for the labour of military prisoners therein, and for the safe custody of such prisoners, and for the maintenance of discipline among them, and for the punishment by personal correction, not exceeding twenty-five lashes in the case of corporal punishment,[a] restraint, or otherwise of offences committed by such prisoners, so, however, that such rules shall not authorize corporal punishment to be inflicted for any offence in addition to the offences for which such punishment can be inflicted in pursuance of the Prison Acts, 1865, 1877, nor render the imprisonment more severe than it is under the law in force for the time being in any public prison in England, subject to the Prison Act of the fortieth and forty-first Victoria, chapter twenty-one, and provided that all the regulations in the Prison Act of 1865 and in the aforesaid Act as to the duties of gaolers, medical officers, and coroners shall be contained in such rules, so far as the same can be made applicable.

28 & 29 Vict. c. 126. 40 & 41 Vict. c. 21.

On all occasions of death by violence or attended with suspicious circumstances in any military prison in India an inquest is to be held, to make inquiry into the cause of death. The commanding officer shall cause notice to be given to the nearest magistrate, duly authorized to hold inquests, and such magistrate shall hold an inquest into the cause of any such death, in the manner and with the powers provided in the case of similar inquiries held under the law for the time being in force in India for regulating criminal procedure.

Where from any cause there is no competent civil authority available, the commanding officer shall convene a court of inquest. Such court shall be convened and shall hold the inquest in such manner as may be prescribed.

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[a] See note on p. 1079, *supra*.

Military prisons.

Such rules may apply to such prisons any enactments of the Prison Act, 1865, imposing punishments on any persons not prisoners. 28 & 29 Vict. c. 126. Sec. s 37, 40.

All rules made by a Secretary of State in pursuance of this section shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if not, as soon as practicable after the commencement of the then next session of Parliament.

Restrictions on confinement in prisons in India or colonies, not being military prisons.

130. No soldiers shall be confined, longer than is absolutely necessary, in prisons other than military prisons in India and the colonies where the rules for the government and management of such prisons differ from those made by the Governor General of India and a Secretary of State in the case of India and the colonies respectively.

Classification of prisoners.

131. WHEREAS it is expedient that a clear difference should be made between the treatment of prisoners convicted of breaches of discipline and the treatment of prisoners convicted of offences of an immoral, dishonest, shameful, or criminal character, a Secretary of State shall from time to time make rules for the classification and treatment of such prisoners.

Pay.

Pay.

Authorized deductions only to be made from pay.

132. THE pay of an officer or soldier of Her Majesty's regular forces shall be paid without any deduction other than the deductions authorized by this or any other Act or by any royal warrant for the time being. Mutiny Act, 60.

Penal stoppages from ordinary pay of officers.

133. THE following penal deductions shall be made from the ordinary pay due to an officer of the regular forces:

(1) All ordinary pay due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted him, unless a satisfactory explanation has been given through the commanding officer of such officer, and has been notified as satisfactory by the Commander-in-Chief to a Secretary of State: (1.) Art. of War, 2, 175, 176.

(2) The sum required to make good such compensation for any expenses, loss, damage, or destruction occasioned by the commission of any offence as may be awarded by the court-martial by whom he is convicted of such offence: (2.) Mutiny Act, 17. Art. of War, 130.

(3) The sum required to make good the pay of any officer or soldier which he has unlawfully retained or unlawfully refused to pay. (3.) See Mutiny Act, 60.

Penal stoppages from ordinary pay of soldiers.

134. THE following penal deductions may be made from the ordinary pay due to a soldier of the regular forces:

(1) All ordinary pay for every day of absence either on desertion or without leave, or as prisoner of war, and for every day of imprisonment either under sentence for an offence awarded by a civil court or court-martial, or by his commanding officer, or under detention on (1.) Art. of War 50, 170 to 176.

the charge for an offence of which he is afterwards convicted by a civil court or court-martial;

(2) All ordinary pay for every day on which he is in hospital on account of sickness certified by the proper medical officer attending on him at the hospital to have been caused by an offence committed by him;

(3) Mutiny Act, 17, 50. Art. of War, 47, 130, 131.

(3) The sum required to make good such compensation for any expenses, loss, damage, or destruction occasioned by the commission of any offence as may be awarded by the court-martial by whom he is convicted of such offence, or where he has confessed the offence and his trial is dispensed with by order, as may be awarded by order of the authority by whose order the trial is dispensed with;

See Art. of War, 8, 130, 131.

(4) The sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, or regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer, or, in case he requires to be tried by a court-martial, by that court-martial;

(5.) Art. of War, 179.

(5) Where a soldier's liquor ration is stopped by his commanding officer on board any ship, whether commissioned by Her Majesty or not, the sum equivalent to such ration, whether previously drawn by the soldier or not, not exceeding one penny a day for twenty-eight days;

(6.) Art. of War, 177.

(6) The sum required to pay a fine awarded by a court-martial, his commanding officer, or a civil court; and

(7.) Mutiny Act, 106. Art. of War, 177.

(7) The sum required to pay any sum ordered by a Secretary of State to be paid as mentioned in this Act for the maintenance of his wife or child, or of any bastard child, or towards the cost of any relief given by way of loan to his wife or child

Art. of War, 132.

Provided that the total amount of deductions from the ordinary pay due to a soldier in respect of the sums required to pay any compensation, fine, or sum awarded or ordered to be paid as aforesaid by a court-martial, commanding officer, or Secretary of State shall not exceed such sum as will leave to the soldier, after paying for his messing and washing, less than one penny a day.

And (2) that a person shall not be subjected in respect of any compensation, fine, or sum awarded or ordered to be paid as aforesaid to any deductions greater than is sufficient to make good the expenses, loss, damage, or destruction for which such compensation is awarded, or to pay the said sum.

See Art. of War, 134. Royal Warrant, 893.

135. SUBJECT to any regulation or order from time to time made by a Secretary of State, a court-martial by whom an officer or soldier is

Remission of deductions from ordinary pay.

Pay.

tried for any offence, and where a soldier is not tried by court-martial the commanding officer of such soldier, may remit the whole or any portion of any deduction of pay authorized by this Act, in any case where such remission appears to such court or commanding officer to be just, or to be conducive to the good of the service.

Supplemental as to deductions from ordinary pay.

136. ANY sum authorized by this Act to be deducted from the ordinary pay of an officer or soldier may, without prejudice to any other mode of recovering the same, be deducted from the ordinary pay or from any sums due to such officer or soldier, in such manner, and when deducted or recovered may be appropriated in such manner, as may be from time to time directed by any regulation or order of the Secretary of State. Art. of War, 133, 175.

And any such regulation or order may from time to time declare what shall be deemed for the purposes of the provisions of this Act relating to deductions from pay to constitute a day of absence or a day of imprisonment.

In cases of doubt as to the proper issue of pay or the proper deduction from pay due to any officer or soldier, the pay may be withheld until Her Majesty's order respecting it has been signified through a Secretary of State, which order shall be final. Art. of War, 178.

Exemptions of officers and soldiers.

Exemptions of Officers and Soldiers.

Exemptions of officers and soldiers from tolls.

137. ALL officers and soldiers of Her Majesty's regular forces on duty or on the march; and Mutiny Act, 73.

their horses and baggage; and

all prisoners under military escort; and

all carriages and horses belonging to Her Majesty or employed in her military service, when conveying any such persons as above in this section mentioned, or baggage or stores, or returning from conveying the same,

shall be exempted from payment of any duties or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing-place, or in passing along or over any turnpike or other road or bridge, otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed, or by virtue of any Act, ordinance, order, or direction of the legislature or other authority in India or any colony:

Provided that nothing in this section shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels.

When any soldiers have occasion in their march by route to pass regular ferries in Scotland, the officer commanding may, at his option, pass over with Mutiny Act, 74.

his soldiers as passengers, and shall pay for himself and each soldier one half only of the ordinary rate payable by single persons, or may hire the ferry boat for himself and his party, debarring others for that time, and shall in all such cases pay only half the ordinary rate for such boat. *Exemptions of officers and soldiers.*

Mutiny Act, 86.

Any person who demands and receives any duty, toll, or rate in contravention of this section shall, on summary conviction, be liable to a fine not exceeding five pounds nor less than ten shillings.

Mutiny Act, 40.

138. A SOLDIER of Her Majesty's regular forces shall not be liable to be taken out of Her Majesty's service by any process, execution, or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of the following matters, or one of them; that is to say, *Exemption of soldiers in respect of of civil process.*

(1) on account of a charge of or conviction for crime; or

(2) on account of any debt, damages, or sum of money, when the amount exceeds thirty pounds over and above all costs of suit.

For the purposes of this section a crime shall mean a felony, misdemeanor, or other crime or offence punishable, according to the law in force in that part of Her Majesty's dominions in which such soldier is, with fine or imprisonment or some greater punishment, and shall not include the offence of a person absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting his contract.

For the purposes of this section a court of law shall be deemed to include a court of summary jurisdiction and any magistrate.

The amount of the debt, damages, or sum shall be proved for the purpose of any process issued before the court has adjudicated on the case by an affidavit of the person seeking to recover the same or of some one on his behalf, and such affidavit shall be sworn, without payment of any fee, in the manner in which affidavits are sworn in the court in which proceedings are taken for the recovery of the sum, and a memorandum of such affidavit shall, without fee, be indorsed upon any process or order issued against a soldier.

All proceedings and documents in or incidental to a process, execution, or order in contravention of this section shall be void; and where complaint is made by a soldier or his commanding officer that such soldier is dealt with in contravention of this section by any process, execution, or order issued out of any court, and is made to that court or to any court superior to it, the court or some judge thereof shall examine into the complaint, and shall, if necessary, discharge such soldier without fee, and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in any action or other proceeding in such court.

Exemptions of officers and soldiers.

Provided that—

(1) any person having cause of action or suit against a soldier of the regular forces may, notwithstanding anything in this section, after due notice in writing given to the soldier, or left at his last quarters, proceed in such action or suit to judgment, and have execution other than against the person, pay, arms, ammunition, equipments, instruments, regimental necessaries, or clothing of such soldier; and

(2) this section shall not prevent such proceeding with respect to apprentices and indentured labourers as is authorized by this Act.

Liability of soldier to maintain wife and children.

139. A SOLDIER of the regular forces shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any bastard child of which he may be proved to be the father, to the same extent as if he were not a soldier; but execution shall not issue against his person, pay, arms, ammunition, equipments, instruments, regimental necessaries, or clothing, nor shall he be liable to be punished for the offence of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any union, parish, or place. Mutiny Act, 106.

When any order or decree is made under any Act or at common law for payment by a soldier of the regular forces either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to a Secretary of State, and in the case— 5 Geo. 4. c. 8. 10 & 11 Vict. c. 84. 26 & 27 Vict c. 21.

(1) of such order or decree being so sent; or

(2) of it appearing to the satisfaction of a Secretary of State that a soldier of the regular forces has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age, Art. of War, 177.

the Secretary of State may order a portion not exceeding sixpence of the daily pay of a non-commissioned officer who is not below the rank of sergeant, and not exceeding threepence of the daily pay of any other soldier, to be deducted from such daily pay, and to be appropriated, in the first case, in liquidation of the sum adjudged to be paid by such order or decree, and in the second case, towards the maintenance of such wife or children, in such manner as the Secretary of State thinks fit.

Where a proceeding is instituted against a soldier of the regular forces under any Act, or at common law, for the purpose of enforcing against him any such liability as above in this section mentioned, and such soldier is quartered out of the jurisdiction of the court, or, if the proceeding is before a

court of summary jurisdiction, out of the petty sessional division in which the proceeding is instituted, the process shall be served on the commanding officer of such soldier, and such service shall not be valid unless there be left therewith, in the hands of the commanding officer, a sum of money (to be adjudged as costs incurred in obtaining the order or decree, if made against the soldier) sufficient to enable him to attend the hearing of the case and return to his quarters, and such sum may be expended by the commanding officer for that purpose; and no process whatever under any Act or at common law in any proceeding in this section mentioned shall be valid against a soldier of the regular forces if served after the time at which an order has been given for the embarkation for service beyond the seas of the corps to which the soldier belongs, or of the part of the corps in which he is serving.

Exemptions of officers and soldiers.

140. [*Omitted as not applying to India.*]

Court of Requests in India.

Court of Requests in India.

[redacted]tiny Act,

141. WHERE any part of Her Majesty's regular forces is serving in India beyond the jurisdiction of any court of small causes established by or under the authority of the Governor General of India in Council, actions of debt and personal actions against officers and other persons subject to military law, with the exception of persons being soldiers of the regular forces, which would be cognizable by such court of small causes if the said part of Her Majesty's regular forces were within the jurisdiction of the court, shall be cognizable before a court of requests composed of officers, and not elsewhere; provided that—

Military court of requests in India.

(1) the value in question does not exceed four hundred rupees; and

(2) the defendant was a person of the above description when the cause of action arose; and

(3) nothing in this Act shall enable an action to be brought in a military court of requests by an officer or soldier of the regular forces against an officer of the regular forces.

The commanding officer of any camp, garrison, cantonment, or military post is hereby empowered to convene any such court.

Whenever, owing to paucity of officers, or to any other cause, a court of requests cannot conveniently be held at the place where the defendant may be, the officer commanding the division or district may authorize a court to be convened by the officer commanding at the nearest place where such court can be formed.

[redacted]iny Act,

142. COURTS of request under this Act shall in all practicable cases consist of five officers, and in no instance of less than three.

Constitution and proceedings of military court of requests.

Court of Requests in India.

The president thereof shall in all practicable cases be a field officer, and in no case be under the rank of a captain.

Every member shall have served not less than five years as a commissioned officer.

Before any proceedings are had before such court the president and members shall take the following oath, which oath shall be administered by the president of the court to the other members thereof, and to the president by any sworn member; (that is to say)

'You swear, that you will duly administer justice according to the evidence in the matters brought before you.

So help you God.'

All witnesses before any such court shall be sworn and examined in the like manner as in the case of a trial by a court-martial, and shall be liable to the same punishment for giving false evidence.

The provisions of this Act with respect to the substitution of a solemn declaration for an oath in the case of a court-martial shall apply as if they were enacted in this section, and in terms made applicable thereto.

Execution of judgment of military court of requests.

143. A MILITARY court of requests held in India under the authority of this Act, on adjudging payment of any sum by any person subject to military law (in this section referred to as the debtor), may either award execution thereof generally, or direct specially that the amount named in the direction, being the whole or any part of the said sum, shall be paid by instalments or otherwise out of any pay or other public money payable to the debtor, and the amount named in the direction, not exceeding one-half of such pay and public money, shall, while the debtor is in India, be stopped and paid in conformity with the direction. Mutiny Act, 99.

Where execution is awarded generally by a military court of requests, the sum, if not paid forthwith, shall be levied by seizure and public sale of such of the property of the debtor as may be found within the camp, garrison, cantonment, or military post to which the debtor belongs, and, if the proceeds are insufficient to pay the said sum, as may be found within the limits of a camp, garrison, cantonment, or military post in India to which the debtor may belong at any subsequent time.

The levy and seizure shall be made under a written order of the commanding officer of such camp, garrison, cantonment, or military post, grounded on the judgment of the court.

The arms and equipment of a debtor shall not be liable to be seized or sold under this section.

All orders of the commanding officer as to the manner of such sale, or the person by whom the same shall be made, or otherwise respecting the same,

shall be duly observed; and if any question arises whether any such property is liable to be seized or sold as aforesaid, the decision of the said commanding officer thereon shall be final. *Court of Requests in India.*

If sufficient property is not found within the limits of the camp, garrison, cantonment, or military post, then any pay or public money (not exceeding one-half) accruing to the debtor shall, while the debtor is in India, be stopped, in liquidation of the said sum.

If the debtor does not receive pay as an officer or from any public department, he may be arrested by order of the commanding officer of the camp, garrison, cantonment, or military post, and imprisoned in some convenient place within the camp, garrison, cantonment, or military post, for any period not exceeding two months, unless the said sum be sooner paid.

The commanding officer shall not, nor shall any person acting on his orders in respect of the matters aforesaid, incur any liability to any person whomsoever for any act done by him in execution or intended execution of the provisions of this section.

[redacted] Act,

144. In India all actions of debt and personal actions against persons subject to military law, other than soldiers of the regular forces, within the jurisdiction of any court of small causes, shall be cognisable by such court to the extent of its powers. *Courts of small causes and civil courts in India.*

All such actions where the amount sued for exceeds four hundred rupees shall be cognisable by a civil court or court of small causes only.

A civil court or court of small causes, upon adjudging payment of any sum by any person subject to military law other than a soldier of the regular forces, may either award execution thereof generally, or may direct specially that the amount named in the direction, being the whole or any part of the said sum, shall be paid by instalments or otherwise out of any pay or other public money payable to the debtor, and the amount named in the direction, not exceeding one half of such pay and public money, shall, while the debtor is in India, be stopped and paid in conformity with the direction.

In regard to award of execution generally, a civil court or court of small causes shall proceed in accordance with the rules of procedure of such court in India.

Legal Penalties in Matters respecting Forces.

Legal penalties in matters respecting forces.

[redacted]utiny Act, [redacted].

145. Any person who falsely confesses himself to be a deserter from Her Majesty's regular forces shall on summary conviction be sentenced to be imprisoned, with or without hard labour, for any period not exceeding three months. **Punishment for pretending to be a deserter.**

Legal penalties in matters respecting forces.

Punishment for inducing soldiers to desert.

146. ANY person who in the United Kingdom or elsewhere by any means whatsoever— Mutiny Act, 81.

(1) procures or persuades any soldier to desert, or attempts to procure or persuade any soldier to desert; or

(2) knowing that a soldier is about to desert, aids or assists him in deserting; or

(3) knowing any soldier to be a deserter, conceals such soldier, or aids or assists him in concealing himself, or aids or assists in his rescue,

shall be liable on summary conviction to be imprisoned, with or without hard labour, for a term not exceeding six months.

Apprehension of deserters.

147. WITH respect to deserters the following provisions shall have effect: Mutiny 34, 37.

(1) upon reasonable suspicion that a person is a deserter, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a court of summary jurisdiction:

(2) where a person is brought before a court of summary jurisdiction charged with being a deserter under this Act, such court may deal with the case in like manner as if such person were brought before the court charged with an indictable offence, or in Scotland an offence:

(3) the court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as the court may deem most expedient, or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the court reasonably necessary for the purpose of delivering him into military custody:

(4) where the person confessed himself to be a deserter, and evidence of the truth or falsehood of such confession is not then forthcoming, the court shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the court shall transmit, if sitting in the United Kingdom to a Secretary of State, and if in India to the general or other officer commanding the forces in the military district or station where the court sits, and if in a colony to the general or other officer commanding the forces in that colony, a return (in this Act referred to as a descriptive return) containing such particulars and

being in such form as is specified in the Fifth Schedule to this Act, or as may be from time to time directed by a Secretary of State: *Legal penalties in matters respecting forces.*

(5) the court may from time to time remand the said person for a period not exceeding eight days in each instance and not exceeding in the whole such period as appears to the court reasonably necessary for the purpose of obtaining the said information:

(6) where the court cause a person either to be delivered into military custody or to be committed as a deserter, the court shall send, if in the United Kingdom to a Secretary of State, and if in India or a colony to the general or other officer commanding as aforesaid, a descriptive return in relation to such deserter, for which the clerk of the court shall be entitled to a fee of two shillings:

(7) a Secretary of State shall direct payment of the said fee.

Mutiny Act, 8.

148. EVERY person (except the army purchase commissioners, and persons acting under their authority by virtue of the Regulation of the Forces Act, 1871,) who negotiates, acts as agent for, or otherwise aids or connives at— Penalty on trafficking in commissions. 34 & 35 Vict. c. 86.

(1) the sale or purchase of any commission in Her Majesty's regular forces; or

(2) the giving or receiving of any valuable consideration in respect of any promotion in or retirement from such forces, or any employment therein; or

(3) any exchange which is made in manner not authorized by regulations made in pursuance of the Regimental Exchanges Act, 1875, and in respect of which any sum of money or other consideration is given or received, 38 & 39 Vict. c. 16.

shall be liable on conviction on indictment or information to a fine of one hundred pounds, or to imprisonment for any period not exceeding six months, and if an officer, on conviction by court-martial, to be dismissed the service.

Mutiny Act, 5.

149. (1.) EVERY person who— Penalty on purchasing from soldiers regimental necessaries, equipments, stores, &c. 32 & 33 Vict. c. 57.

(*a*) buys, exchanges, takes in pawn, detains, or receives from a soldier, or any person acting on his behalf, on any pretence whatsoever; or

(*b*) solicits or entices any soldier to sell, exchange, pawn, or give away; or

(*c*) assists or acts for a soldier in selling, exchanging, pawning, or making away with,

any of the property following; namely, any arms, ammunition, equipments, instruments, regimental necessaries, or clothing, or any military decorations of an officer or soldier, or any furniture, bedding, blankets, sheets, utensils, and stores in regimental charge, or any provisions or forage issued for the use of an officer or soldier, or his horse, or of any horse employed in Her Majesty's service, shall, unless he proves either that he acted in ignorance of the same

Legal penalties in matters respecting forces.

being such property as aforesaid, or of the person with whom he dealt being or acting for a soldier, or that the same was sold by order of a Secretary of State or some competent military authority, be liable on summary conviction, in the case of the first offence, to a fine not exceeding twenty pounds, together with treble the value of any property of which such offender has become possessed by means of his offence; and in the case of a second offence, to a fine not exceeding twenty pounds, together with treble the value of any property of which such offender has become possessed by means of his offence, but not less than five pounds, or to imprisonment, with or without hard labour, for a term not exceeding six months.

(2.) Where any such property as above in this section mentioned is found in the possession or keeping of any person, such person may be taken or summoned before a court of summary jurisdiction, and if such court have reasonable ground to believe that the property so found was stolen, or was bought, exchanged, taken in pawn, obtained or received in contravention of this section, then if such person does not satisfy the court that he came by the property so found lawfully and without any contravention of this Act, he shall be liable on summary conviction to a penalty not exceeding five pounds.

(3.) A person charged with an offence against this section, and the wife or husband of such person, may, if he or she think fit, be sworn and examined as an ordinary witness in the case.

(4.) A person found committing an offence against this section may be apprehended without warrant, and taken, together with the property which is the subject of the offence, before a court of summary jurisdiction; and any person to whom any such property as above mentioned is offered to be sold, pawned, or delivered, who has reasonable cause to suppose that the same is offered in contravention of this section, may, and if he has the power shall, apprehend the person offering such property, and forthwith take him, together with such property, before a court of summary jurisdiction.

24 & 25 Vict. c. 96, s. 103.

(5.) A court of summary jurisdiction, if satisfied on oath that there is reasonable cause to suspect that any person has in his possession, or on his premises, any property on or with respect to which any offence in this section mentioned has been committed, may grant a warrant to search for such property, as in the case of stolen goods; and any property found on such search shall be seized by the officer charged with the execution of such warrant, who shall bring the person in whose possession the same is found before some court of summary jurisdiction, to be dealt with according to law.

See 38 & 39 Vict. c. 25.

(6.) For the purposes of this section property shall be deemed to be in the possession or keeping of a person if he knowingly has it in the actual possession or keeping of any other person, or in any house, building, lodging, apartment,

field, or place, open or inclosed, whether occupied by himself or not, and whether the same is so had for his own use or benefit, or for the use or benefit of another. *Legal penalties in matters respecting forces.*

(7.) Articles which are public stores within the meaning of the Public Stores Act, 1875, and are not included in the foregoing description, shall not be deemed to be stores issued as regimental necessaries or otherwise within the meaning of section thirteen of that Act. 38 & 39 Vict. c. 25.

(8.) It shall be lawful for the Governor General of India or for the legislature of any colony, on the recommendation of the governor thereof, but not otherwise, by any law or ordinance to reduce a minimum fine under this section to such amount as may to such Governor General or legislature appear to be better adapted to the pecuniary means of the inhabitants.

Jurisdiction.

Jurisdiction.

Mutiny Act, 4. Art. of War, 63.

150. WHERE a person subject to military law has been acquitted or convicted of an offence by a court-martial, he shall not be liable to be tried again by a court-martial in respect of that offence. *Person not to be tried twice.*

151. WHERE an offence under this Act has been committed by any person while subject to military law, such person may be taken into and kept in military custody, and tried and punished for such offence, although he, or the corps to which he belongs, has ceased to be subject to military law, in like manner as he might have been taken into and kept in military custody, tried or punished, if he or such corps had continued so subject: *Liability to military law in respect of status.* See 38 & 39 Vict. c. 69. s. 66.

Provided that where a person has since the commission of an offence ceased to be subject to military law, he shall not be tried for such offence, except in the case of the offence of mutiny, desertion, or fraudulent enlistment, unless his trial commences within three months after he has ceased to be subject to military law; but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court-martial.

Mutiny Act 32, and see Art. of War. 23.

Where a person subject to military law is sentenced by court-martial to penal servitude or imprisonment, this Act shall apply to him during the term of his sentence, notwithstanding that he is discharged or dismissed from Her Majesty's service, or has otherwise ceased to be subject to military law, and he may be kept, removed, imprisoned, and punished accordingly as if he continued to be subject to military law.

Mutiny Act, 7.

152. ANY person subject to military law who within or without Her Majesty's dominions commits any offence for which he is liable to be tried by court-martial may be tried and punished for such offence at any place (either within or without Her Majesty's dominions) which is within the jurisdiction of an officer authorized to convene general courts-martial, and in which the *Liability to military law in respect of place of commission of offence.*

Jurisdiction.

offender may for the time being be, in the same manner as if the offence had been committed where the trial by court-martial takes place, and the offender were under the command of the officer convening such court-martial.

Punishment not increased by trial elsewhere than offence committed.

153. No person shall be subject to any punishment or penalties under the provisions of this Act other than those which could have been inflicted if he had been tried in the place where the offence was committed.

Liability to military law in respect of time for trial of offences.

154. A PERSON shall not in pursuance of this Act be tried or punished for any offence triable by court-martial committed more than three years before the date at which his trial begins, except in the case of the offence of mutiny, desertion, or fraudulent enlistment; but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court, as well as by court-martial; and where a soldier has served continuously in an exemplary manner for not less than three years in any corps of Her Majesty's regular forces he shall not be tried for any such offence of desertion (other than desertion on active service), or of fraudulent enlistment, as was committed before the commencement of such three years, but where such offence was fraudulent enlistment all service prior to such enlistment shall be forfeited, and his attestation upon his last enlistment shall be as valid as if he had not been guilty of fraudulent enlistment, and every prior attestation shall be cancelled. Mutiny Act, 97.

Adjustment of military and civil law.

155. (1.) IF a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a civil court for the same offence, that court shall, in awarding punishment, have regard to the military punishment he may have already undergone. See Mutiny Act, 101.

(2.) Save as aforesaid, nothing in this Act shall exempt an officer or soldier from being proceeded against by the ordinary course of law, when accused or convicted of any offence, except such an offence as is declared not to be a crime for the purpose of the provisions of this Act relating to taking a soldier out of Her Majesty's service. Mutiny Act, 76.

(3.) If an officer—

(*a*) neglects or refuses on application to deliver over to the civil magistrate any officer or soldier under his command, who is so accused or convicted as aforesaid; or See Art. of War, 71.

(*b*) wilfully obstructs or neglects or refuses to assist constables or other ministers of justice in apprehending any such officer or soldier,

such commanding officer shall, on conviction in any of Her Majesty's superior courts in the United Kingdom, or in a supreme court in India, be guilty of a misdemeanor.

(4.) A certificate of a conviction of an officer under this section, with the

judgment of the court thereon in such form as may be directed by a Secretary of State, shall be transmitted to such Secretary of State. *Jurisdiction.*

(5.) Any offence committed by any such commanding officer out of the United Kingdom shall for the purpose of the apprehension, trial, and punishment of the offender be deemed to have been committed within the jurisdiction of Her Majesty's High Court of Justice in England; and such court shall have jurisdiction as if the place where the offence was committed or the offender may for the time being be were in England.

Mutiny Act, 39.

(6.) Where a person subject to military law has been acquitted or convicted of an offence by a competent civil court, he shall not be liable to be tried in respect of that offence under this Act.

Evidence.

Evidence.

Regulations as to evidence.

156. THE following enactments shall be made with respect to evidence in proceedings under this Act, whether before a civil court or a court-martial; that is to say,

Mutiny Act, 48.

(*a*) the attestation paper purporting to be signed by a person on his being attested as a soldier, or the declaration purporting to be made by any person upon his re-engagement in any of Her Majesty's regular forces, or upon any enrolment in any branch of Her Majesty's service, shall be evidence of such person having given the answers to questions which he is therein represented as having given:

the enlistment of a person in Her Majesty's service may be proved by the production of a copy of his attestation paper purporting to be certified to be a true copy by the officer having the custody of the attestation paper without proof of the handwriting of such officer, or of his having the custody of the paper:

Mutiny Act, 37, 48. Art. of War, 46.

(*b*) a letter respecting the service of any person in or the discharge of any person from any portion of Her Majesty's forces, or respecting a person not having served in or belonged to any portion of Her Majesty's forces, if purporting to be signed by or on behalf of a Secretary of State, or of the Commissioners of the Admiralty, or by the commanding officer of any portion of Her Majesty's forces, or of any of Her Majesty's ships, to which such person appears to have belonged, or alleges that he belongs or had belonged, shall be evidence of the facts stated in such letter:

(*c*) copies purporting to be printed by a Government printer of Queen's regulations, of royal warrants, of army circulars, and of rules made by Her Majesty, or a Secretary of State, in pursuance of this Act,

Evidence.

shall be evidence of such regulations, royal warrants, army circulars, and rules :

(*d*) an army list purporting to be published by authority, and either be printed by a Government printer or to be issued, if in the United Kingdom, by Her Majesty's Stationery Office, and if in India, by some office under the Governor General of India or the Governor of any presidency in India, shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by such officers, and of the corps or arm or branch of the service to which such officers belong :

(*e*) any warrants or orders made in pursuance of this Act by any military authority shall be deemed to be evidence of the matters and things therein directed to be stated by or in pursuance of this Act, and any copies of such warrants or orders purporting to be certified to be true copies by the officer therein alleged to be authorized by a Secretary of State or Commander-in-Chief to certify the same shall be admissible in evidence :

(*f*) evidence of the delivery at the then last registered place of abode of a man enrolled in the army reserve of a notice issued by the proper officer under the direction of a Secretary of State or of the delivery of a letter containing such notice addressed to the said place of abode, shall be evidence that such notice was brought to the knowledge of such man : Mutiny Act, 107.

(*g*) a record made in one of the regimental books in pursuance of the Queen's regulations, purporting to be signed by the commanding officer or by the officer required by the said regulations to make such record, shall be evidence of the facts stated by such record : Art. of War, 46, 155, 156, 167.

(*h*) a copy of any record in one of the said regimental books purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record : Art. of War, 46, 155, 156, 167.

(*i*) a descriptive return within the meaning of this Act, purporting to be signed by a justice of the peace, shall be evidence of the matters therein stated. Mutiny Act, 34.

31 & 32 Vict. c. 37. s. 5.

For the purposes of this Act the expression "Government printer" means any printer to Her Majesty, and any printer purporting to be the printer authorized to print the Acts of State or other public documents of the Government of India, or any presidency in India, or otherwise to be the Government printer of India or such presidency.

Evidence of civil conviction or acquittal.

157. WHENEVER any person subject to military law has been tried by any civil court, the clerk of such court, or his deputy, or other officer having the Mutiny Act, 39. Art. of War, 156,

custody of the records of such court, shall, if required by the commanding officer of such person, or by any other officer, transmit to him a certificate setting forth the offence for which the person was tried, together with the judgment of the court thereon if he was convicted, and the acquittal if he was acquitted, and shall be allowed for such certificate a fee of three shillings. Any such certificate shall be sufficient evidence of the conviction and sentence or of the acquittal of the prisoner, as the case may be. *Evidence.*

Mutiny Act, 18, 19.

158. THE original proceedings of a court-martial, purporting to be signed by the president thereof and being in the custody of the Judge Advocate General, or of the officer having the lawful custody thereof, shall be deemed to be of such a public nature as to be admissible in evidence on their mere production from such custody; and any copy thereof purporting to be certified by such Judge Advocate General or his deputy authorized in that behalf, or by the officer having such custody as aforesaid, to be a true copy of such proceedings or of any part thereof, shall be admissible in evidence without proof of the signature of such Judge Advocate, deputy, or officer; and a Secretary of State, upon production of any such certified copy, may, by warrant under his hand, authorize the offender appearing therefrom to have been convicted and sentenced to any punishment, to be imprisoned and otherwise dealt with in accordance with the sentence in the certified copy mentioned. *Evidence of conviction by court-martial.*

Summary and other Legal Proceedings.

Summary and other legal proceedings.

Mutiny Act, '90, 91.

159. A COURT of summary jurisdiction shall have jurisdiction over all offences triable in a civil court under this Act, except any such offence as is declared by this Act to be a misdemeanor, or to be punishable on indictment; and any offence within the jurisdiction of a court of summary jurisdiction may be prosecuted, and the fine and forfeiture in respect thereof may be recovered on summary conviction, in manner provided by the Summary Jurisdiction Acts. *Prosecution of offences, and recovery and application of fines.*

Any proceedings taken before a court of summary jurisdiction in pursuance of this Act shall be taken in accordance with the Summary Jurisdiction Acts so far as applicable.

A court of summary jurisdiction imposing a fine in pursuance of this Act may, if it seem fit, order a portion of such fine not exceeding one half to be paid to the informer.

The court of summary jurisdiction in England and Ireland, when hearing and determining a case arising under this Act, shall be constituted either of two or more justices of the peace sitting at some court or public place at which justices are for the time being accustomed to assemble for the purpose of holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the public administration of

Summary and other legal proceedings.

justice and for the time being empowered by law to do alone any act authorized to be done by more than one justice of the peace.

Subject to the provisions of this Act with regard to the payment to the informer, fines and other sums recovered before a court of summary jurisdiction in pursuance of this Act shall, notwithstanding anything contained in any other Act, if recovered in England, be paid into the Exchequer, and if recovered in Ireland, shall be applied in manner directed by the Fines Act (Ireland), 1851, and any Acts amending the same. 14 & 15 Vict. c. 90.

Summary proceedings in Scotland.

160. (1.) IN Scotland, offences and fines which may be prosecuted and recovered on summary conviction may be prosecuted and recovered and proceedings under this Act may be taken at the instance of the procurator fiscal of the court, or of any person in that behalf authorized by a Secretary of State or the Commander-in-Chief, or of any person authorized by this Act, to complain. Mutiny Act, 90, 91.

(2.) All fines under this Act in default of payment, and all orders made under this Act failing compliance, may be enforced by imprisonment for a term to be specified in the order or conviction, but not exceeding three months, and the conviction and warrant may be in the form number three of Schedule K. of the Summary Procedure Act, 1864. 27 & 28 Vict. c. 53.

All fines and other sums recovered under this Act before a court of summary jurisdiction, subject to any payment made to the informer, shall be paid to the Queen's and Lord Treasurer's remembrancer, on behalf of Her Majesty.

(3.) It shall be no objection to the competency of a person to give evidence as a witness in any prosecution for offences under this Act, that such prosecution is brought at the instance of such person.

(4.) Every person convicted of an offence under this Act shall be liable in the reasonable costs and charges of such conviction.

(5.) All jurisdictions, powers, and authorities necessary for the purposes of this Act are conferred on the sheriffs and their substitutes and on justices of the peace.

(6.) The court may make, and may also from time to time alter or vary, summary orders under this Act on petition by the procurator fiscal of the court, or such person as aforesaid, presented in common form.

Summary proceedings in Isle of Man, Channel Islands, India, and the colonies.

161. ALL offences under this Act which may be prosecuted, and all fines under this Act which may be recovered on summary conviction, and all proceedings under this Act which may be taken before a court of summary jurisdiction, may be prosecuted and recovered and taken in the Isle of Man, Channel Islands, India, and any colony in such courts and in such manner as may be from time to time provided therein by law, or if no express provision is made, then in and before the courts and in the manner in which the like offences and Mutiny Act, 90.

fines may be prosecuted and recovered and proceedings taken therein by law, or as near thereto as circumstances admit. *Summary and other legal proceedings.*

utiny Act, 5

162. IT shall be lawful for the Governor General of India, and for the legislature of any colony, to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor General or legislature to be better adapted to the pecuniary means of the inhabitants, and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act. Power of Governor General of India and legislature of colony as to fines.

Mutiny Act, 9.

163. ANY action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within twelve months next after the ceasing thereof. Protection of persons acting under Act.

In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendants shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action.

Every such action, and also every action against a member or minister of a court-martial in respect of a sentence of such court, or of anything done by virtue or in pursuance of such sentence, shall be brought in one of Her Majesty's superior courts in the United Kingdom (which courts shall have jurisdiction to try the same whenever the matter complained of occurred) or in a supreme court in India, or in any colonial court of superior jurisdiction, provided the matter complained of occurred within the jurisdiction of such colonial court, and in no other court whatsoever.

Miscellaneous.

Miscellaneous.

164. ANY power or jurisdiction given to, and any act or thing to be done by, to, or before any person holding any military office may be exercised by, or done by, to, or before any other person for the time being authorized in that behalf according to the custom of the service. Exercise of powers vested in holder of military office.

Miscellaneous.

Provisions as to warrants and orders of military authorities.

165. (1.) WHERE any order is authorized by this Act to be made by the Commander-in-Chief or the Adjutant-General, or by the Commander-in-Chief or Adjutant-General of the forces in India or in any presidency in India, or by any general or other officer commanding, such order may be signified by an order, instruction, or letter under the hand of any officer authorized to issue orders on behalf of such Commander-in-Chief, Adjutant-General, or general or other officer commanding, and an order, instruction, or letter purporting to be signed by any officer appearing therein to be so authorized shall be evidence of his being so authorized.

(2.) An order issued in pursuance of this Act in relation to a military convict or military prisoner shall not be held void by reason of the death or removal from office of the officer issuing the same, or by reason of any defect in such order, if it be alleged in such order that the convict or prisoner has been convicted, and there is a good and valid conviction to sustain the order.

(3.) An order in any case if issued in the prescribed form shall be valid, but an order deviating from the prescribed form if otherwise valid shall not be rendered invalid by reason only of such deviation.

(4.) Where any military convict or military prisoner is for the time being in custody, whether military or civil, in any place or manner in which he might legally be kept in pursuance of this Act, the custody of such convict or prisoner shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant, or other document, or the authority by or in pursuance whereof such convict or prisoner was brought into or is detained in such custody, and any such order, warrant, or document may be amended accordingly.

Furlough in case of sickness.

166. IF any soldier on furlough is detained by sickness or other casualty rendering necessary any extension of such furlough in any place, and there is not any officer in the performance of military duty of the rank of captain, or of higher rank, within convenient distance of the place, any justice of the peace who is satisfied of such necessity may grant an extension of furlough for a period not exceeding one month; and the said justice shall by letter immediately certify such extension and the cause thereof to the commanding officer of such soldier if known, and if not, then to a Secretary of State. The soldier may be recalled to duty by his commanding officer or other competent military authority, and the furlough shall not be deemed to be extended after such recall, but, save as aforesaid, the soldier shall not in respect of the period of such extension of furlough be liable to be treated as a deserter, or as absent without leave.

Mutiny A 38. Art. of W 5.

167. [*Omitted as not applying to India.*]

PART V.

APPLICATION OF MILITARY LAW, SAVING PROVISIONS, AND DEFINITIONS.

Persons subject to Military Law.

Persons subject to military law.

168. THE persons in this section mentioned are persons subject to military law as officers, and this Act shall apply accordingly to all the persons so specified; that is to say,

Persons subject to military law as officers.

(1.) Mutiny Act, 2.

(1) officers of the regular forces on full pay, and, if not otherwise subject to military law, officers of the staff of the army, and officers employed on military service under the orders of an officer of the regular forces:

(2.) Mutiny Act, 2, and see 5.

(2) officers who are members of the permanent staffs of any of the auxiliary forces, and are not otherwise subject to military law:

(3.) Mutiny Act, 2, and see 5.

(3) officers of the militia other than members of the permanent staff:

(4.) Mutiny Act, Art. of War, 190.

(4) all such persons not otherwise subject to military law as may be serving in the position of officers of any troops or portion of troops raised by order of Her Majesty beyond the limits of the United Kingdom and of India, and serving under the command of an officer of the regular forces:

Provided that nothing in this Act shall affect the application to such persons of any Act passed by the legislature of a colony:

(5.) See Mutiny Act, 5.

(5) officers of the yeomanry, and officers of the volunteers, whenever in actual command of men who are in pursuance of this Act subject to military law, or when their corps is on actual military service:

(6.) Mutiny Act, , and see 5.

(6) any officer of the yeomanry or volunteers, whether in receipt of pay or otherwise, during and in respect of the time when with his own consent he is attached to or doing duty with any body of troops for the time being subject to military law, whether of the regular or auxiliary forces, or, with his own consent, is ordered on duty by the military authorities:

(7.) Mutiny Act, 2.

(7) every person not otherwise subject to military law who under the general or special orders of a Secretary of State or of the Governor General of India accompanies in an official capacity any of Her Majesty's troops on active service in any place beyond the seas, subject to this qualification, that where such person is a native of

Persons subject to military law.

India within the meaning of Indian military law, he shall be subject to that law as an officer:

(8) any person, not otherwise subject to military law, accompanying a force on active service who shall hold from the commanding officer of such force a pass revocable at the pleasure of such commanding officer entitling such person to be treated on the footing of an officer.

Persons subject to military law as soldiers.

169. THE persons in this section mentioned are persons subject to military law as soldiers, and this Act shall apply accordingly to all the persons so specified; that is to say,

(1) all soldiers of the regular forces: (1 and 2.) Mutiny Act, 2.

(2) all non-commissioned officers and men of the permanent staff of any of the auxiliary forces who are not otherwise subject to military law:

(3) all non-commissioned officers and men serving in a force raised by order of Her Majesty beyond the limits of the United Kingdom and of India, and serving under the command of an officer of the regular forces: (3.) Mutiny Act, 4. Art. of War, 190.

Provided that nothing in this Act shall affect the application to such non-commissioned officers and men of any Act passed by the legislature of a colony:

(4) all pensioners not otherwise subject to military law who are employed in military service under the orders of an officer of the regular forces: (4.) Mutiny Act, 2.

(5) all non-commissioned officers and men belonging to the army reserve force or the militia reserve force,— (5.) Mutiny Act, 2, and see 5.

(*a*) when called out for training and exercise; and

(*b*) when kept on duty having volunteered their services; and

(*c*) when called out for duty in aid of the civil power; and

(*d*) when called out on permanent service under Her Majesty's proclamation:

(6) all non-commissioned officers and men in the militia,— (6.) 38 & 39 Vict. c. 69. ss. 56, 57. Mutiny Act, 2, and see 5.

(*a*) during their preliminary training; and

(*b*) when they or their corps are being trained or exercised either alone or with any portion of the regular forces or otherwise; and

(*c*) when they are attached to or otherwise acting as part of or with any regular forces; and

(*d*) when their corps is embodied:

(7.) ...Geo. 3. c. 54. s. 23. See Mutiny Act, 5.

(7) all non-commissioned officers and men belonging to the yeomanry force,— *Persons subject to military law.*

(*a*) when they or their corps are being trained or exercised, either alone or with any portion of regular forces or with any portion of the militia when subject to military law; and

(*b*) when they are attached to or otherwise acting as part of or with any regular forces; and

(*c*) when their corps is on actual military service;

(*d*) when serving in aid of the civil power:

(8.) ...& 27 Vict. c. 65. s. 23. ...& 34 Vict. c. 86. s. 9. ...Mutiny Act, 5.

(8) all non-commissioned officers and men belonging to the volunteer forces,—

(*a*) when they are being tained or exercised with any portion of the regular forces or with any portion of the militia when subject to military law; and

(*b*) when they are attached to or otherwise acting as part of or with any regular forces; and

(*c*) when their corps is on actual military service:

Provided that it shall be the duty of the commanding officer of any volunteer force, except when on actual military service, to obtain the consent of every non-commissioned officer and man belonging to such force before such non-commissioned officer or man shall enter on any service in which he shall be subject to military law:

(9.) ...y Act,

(9) all persons who are employed by or are in the service of any of Her Majesty's troops when employed on active service beyond the seas, and who are not under the former provisions of this Act subject to military law; and

(10.) ...ny Act,

(10) all persons not otherwise subject to military law who are followers of or accompany Her Majesty's troops, or any portion thereof, when employed on active service beyond the seas; subject to this qualification, that where any such persons are employed by or are followers of or accompany any portion of Her Majesty's forces consisting partly of Her Majesty's Indian forces subject to Indian military law, and such persons are natives of India within the meaning of Indian military law, they shall be subject to that law.

...tiny 2, 5. ...of War,

170. When officers, non-commissioned officers, and men belonging to the auxiliary forces are subject to military law in pursuance of this Act, such officers and men shall be subject to this Act in all respects as if they were part of the regular forces, and the provisions of this Act shall be construed as if such officers and men were included in the expression "regular forces": *Mutual relations of regular forces and auxiliary forces.*

Provided that nothing in this section contained shall affect the conditions

Persons subject to military law.

of service of any officer, non-commissioned officer, or man belonging to such auxiliary forces.

171. [*Omitted as not applying to India.*]

Modification of Act with respect to Her Majesty's Indian forces.

172. In the application of this Act to Her Majesty's Indian forces, the following modifications shall be made:

(1.) Nothing in this Act shall prejudice or affect the Indian military law respecting officers or soldiers or followers in Her Majesty's Indian forces, being natives of India within the meaning of such law; and on the trial of all offences committed by any such native officer, soldier, or follower, reference shall be had to the Indian military law for such native officers, soldiers, or followers, and to the established usages of the service, but courts-martial for such trials may be convened in pursuance of this Act. (1.) Mutiny Act, 1. Marine Mutiny Act, 14.

For the purposes of this Act the expression "Indian military law" means the Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force under the authority of the Government of India; and such articles or other matters shall extend to such native officers, soldiers, and followers wherever they are serving.

(2.) The Governor of any presidency in India may suspend the proceedings of any court-martial held in India on an officer or soldier belonging to Her Majesty's Indian forces within such presidency. (2.) Mutiny Act, 100.

(3.) An officer belonging to Her Majesty's Indian forces who thinks himself wronged by his commanding officer, and on due application made to him does not receive the redress to which he may consider himself entitled, may complain to the Commander-in-Chief in the presidency to which such officer belongs, who shall cause his complaint to be inquired into, and thereupon report to the Governor of such presidency in order to receive the further directions of that Governor. (3.) Mutiny [illegible] 100.

(4.) A court-martial may sentence an officer of the Indian staff corps to forfeit all or any part of his army or staff service, or all or any part of both. (4.) [illegible] 123.

(5.) The Governor of any of the presidencies in India may reduce any warrant officer not holding an honorary commission who is serving in or belonging to such presidency to a lower grade of warrant rank, or may remand any such warrant officer to regimental duty in the rank held by him immediately previous to his appointment to be a warrant officer. (5.) [illegible]

(6.) The provisions of this Act relating to warrant officers not holding (6.) Art. of War, 128.

honorary commissions shall apply to hospital apprentices in India although not appointed by warrant. *Persons subject to military law.*

(7.) Mutiny Act, 52.

(7.) Part two of this Act shall not apply to Her Majesty's Indian forces, but persons may be enlisted and attested in India for medical service or for other special service in Her Majesty's Indian forces for such periods by such persons and in such manner as may be from time to time authorized by the Governor General of India.

In this Act, so far as regards India, any reference to an indictable offence, or an offence punishable on indictment, shall be deemed to refer to an offence punishable with rigorous imprisonment.

173. [*Omitted as not applying to India.*]

Art. of War, 28.

174. In the application of this Act to a warrant officer not holding an honorary commission, the following modifications shall be made : *Special provisions as to warrant officers.*

(1) he shall not be punished by his commanding officer nor tried by regimental court-martial, nor sentenced by a district court-martial to any punishment not in the section mentioned; and

(2) he shall not be liable to corporal punishment;[a] and

(3) without prejudice to any other power of a court-martial, he may be sentenced by a court-martial other than a regimental court-martial to be dismissed from the service or to be suspended from rank, and pay, and allowances, or any of them, for any period stated by the court-martial, or to be reduced to the bottom or any other place in the list of the rank which he holds, or to be reduced to an inferior class of warrant officer (if any), or if he was originally enlisted as a soldier and transferred to serve as a warrant officer, but not otherwise, to be reduced to the ranks or to be transferred to a corps in the same arm or branch of the service and in the same rank as that in which he served immediately before his transfer to be warrant officer; provided that a warrant officer *so* reduced to the ranks shall not be required to serve in the ranks as a soldier; and

Art. of War, 14.

(4) the president of a court-martial for the trial of a warrant officer shall not be under the rank of a field officer unless the officer convening the court is under the degree of field officer, or unless, in the opinion of the officer convening the court, such opinion to be expressed in the order convening the court, and to be conclusive, a field officer is not, with due regard to the public service, available, but such president shall in no case be under the rank of captain.

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[a] See note to p. 1079, *supra*.

Persons subject to military law.

175. In the application of this Act to a non-commissioned officer, the following modifications shall apply:

Special provisions as to non-commissioned officer.

(1) The obligation on a commanding officer to deal summarily with a soldier charged with drunkenness shall not apply to a non-commissioned officer charged with drunkenness:

(2) The Commander-in-Chief, and in India the Commander-in-Chief of the forces in India, and also the Commander-in-Chief of the forces in any presidency in India, may reduce any non-commissioned officer to any lower grade or to the ranks: Art of War, 137.

(3) A non-commissioned officer may be reduced by the sentence of a court-martial to any lower grade or to the ranks, either in addition to or without any other punishment, in respect of an offence: Mutiny Act, 17.

(4) A non-commissioned officer shall be sentenced to be reduced to the ranks before being sentenced to penal servitude or imprisonment.

Provided that,—

(1) an army schoolmaster shall not be liable to be reduced to the ranks; but Art. of War, 137.

(2) the Commander-in-Chief, and in India the Commander-in-Chief of the forces in India, and also the Commander-in-Chief of the forces of any presidency in India, may dismiss an army schoolmaster.

Special provisions as to application of Act to persons not belonging to Her Majesty's forces.

176. In the application of this Act to persons who do not belong to Her Majesty's forces, the following modifications shall be made:

(1.) Where an offence has been committed by any person subject to military law who does not belong to Her Majesty's forces, such person may be tried by any description of court-martial other than a regimental court-martial, convened by an officer authorized to convene such description of court-martial, within the limits of whose command the offender may for the time being be, and may be tried and on conviction dealt with and punished accordingly.

(2.) Any person subject to military law who does not belong to Her Majesty's forces shall, for the purposes of this Act relating to offences, be deemed to be under the command of the commanding officer of the corps (if any) to which he is attached, and if he is not attached to any corps, under the command of any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be, or of any other prescribed officer, or if no such officer is named or prescribed, under the command of the said general or other officer commanding, but such person shall not be liable to be punished by a commanding officer or by a regimental court-martial.

Provided that a general or other officer commanding shall not place a person under the command of an officer of rank inferior to the official rank of such

person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

177—180. [*Omitted as not applying to India.*]

Definitions.

Definitions.

Interpretation of terms.

181. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say,

the expresssion "Secretary of State" means one of Her Majesty's Principal Secretaries of State:

the expression "Lord Lieutenant of Ireland" includes the lords justices or other chief governor or governors of Ireland:

[redacted]y Act,
War,

the expression "Commander-in-Chief" means the field marshal or other officer commanding in chief Her Majesty's forces for the time being:

the expression "officer" means an officer commissioned or in pay as an officer in Her Majesty's regular, reserve, or auxiliary forces, or any arm, branch, or part thereof; it also includes a person who, by virtue of his commission, is appointed to any department or corps of Her Majesty's regular, reserve, or auxiliary forces, or of any arm, branch, or part thereof; it also includes a person, whether retired or not, who, by virtue of his commission or otherwise, is legally entitled to the style and rank of an officer of Her Majesty's said forces, or of any arm, branch, or part thereof:

warrant and other officers holding honorary commissions are officers within the meaning of this Act, subject to the exceptions in this Act mentioned:

the expression "non-commissioned officer" includes an acting non-commissioned officer, and includes a warrant officer not holding an honorary commission, and also includes an army schoolmaster:

the expression "soldier" does not include an officer as defined by this Act, but, with the modifications in this Act contained in relation to warrant officers and non-commissioned officers, does include a warrant officer not having an honorary commission and a non-commissioned officer, and every person subject to military law during the time that he is so subject:

the expression "superior officer," when used in relation to a soldier, includes a non-commissioned officer as above defined:

the expressions "regular forces" and "Her Majesty's regular forces" mean officers and soldiers who by their commission, terms of enlist-

Definitions.

ment, or otherwise, are liable to render continuously for a term military service to Her Majesty in any part of the world, including, subject to the modifications in this Act mentioned, the Royal Marines and Her Majesty's Indian forces, and subject to this qualification that when the reserve forces are subject to military law at the times specified in this Act such forces become during the period of their being so subject part of the regular forces:

the expression "reserve forces" means the army reserve force and the militia reserve force:

the expression "the army reserve force" means the reserve force established under the Reserve Force Act, 1867, and any Act amending the same:

30 & 31 Vict. c. 110.

30 & 31 Vict. c. 111.

the expression "the militia reserve force" means the men enlisted from time to time under the Militia Reserve Act, 1867, and any Act amending the same:

he expression "auxiliary forces" means the militia, the yeomanry, and the volunteers:

he expression "militia" includes general and local militia:

he expression "volunteers" includes the Honourable Artillery Company of London:

he expression "corps" means,—

1) in the case of Her Majesty's regular forces:—

Mutiny A
103.
Art. of
188.

(*a*) as respects cavalry, a regiment; and

(*b*) as respects artillery, a regiment; and

(*c*) as respects engineers, a corps; and

(*d*) as respects infantry, a territorial brigade consisting of two or more battalions, associated by general order or Royal warrant for the purpose of enlistment and service, exclusive of the auxiliary forces belonging to such brigade, but inclusive of such portion of the permanent staff of those auxiliary forces as consists of officers or soldiers of the regular forces; and also means a regiment not included in a territorial brigade; and

(*e*) means the Royal Marine forces, in this Act referred to as the Royal Marines; and also

(*f*) means the army service corps, the army hospital corps, and any other portion of Her Majesty's regular forces, by whatever name called, which is declared by Royal warrant to be a corps for the purposes of this Act; and also

(*g*) means any other portion of Her Majesty's regular forces employed on any service and not attached to any corps as above defined; and

(2) in the case of Her Majesty's auxiliary forces means— *Definitions.*

(*a*) a regiment of militia;

(*b*) a regiment of yeomanry cavalry;

(*c*) a corp of volunteers; and

(*d*) means any other portion of Her Majesty's auxiliary forces employed in any service, and not attached to any corps as above defined:

the expression "regimental" means connected with a corps, or with any battalion or other sub-division of a corps:

the expression "military decoration" means any medal, clasp, good-conduct badge, or decoration:

the expression "military reward" means any gratuity or annuity for long service or good conduct; it also includes any good-conduct pay or pension and any other military pecuniary reward:

the expression "enemy" includes all armed mutineers, armed rebels, armed rioters, and pirates:

the expression "on active service" as applied to a person subject to military law means whenever he is attached to or forms part of a force which is engaged in operations against the enemy or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country:

the expression "India" means any territories the government of which is vested in Her Majesty by or in pursuance of the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six, intituled "An Act for the better government of India," and the Acts amending the same, and also any territories in India under the dominion of any native prince or princes:

the expression "native of India within the meaning of Indian military law" means a person triable and punishable under that law:

the expression "colony" means for the purposes of this Act Cyprus and any part of Her Majesty's dominions, exclusive of the United Kingdom, the Channel Islands, and the Isle of Man, and India, and all territories and places being part of Her Majesty's dominions which are under one legislature shall be deemed for the purposes of this Act to constitute one colony; and where there are local legislatures as well as a central legislature the expression "legislature" means the central legislature only:

the expression "foreign country" means any place which is not situate in the United Kingdom, a colony, or India, as above defined:

Definitions.

the expression "beyond the seas" means out of the United Kingdom, the Channel Islands, and Isle of Man; and the expression "station beyond the seas" includes any place where any of Her Majesty's forces are serving out of the United Kingdom, the Channel Islands, and Isle of Man:

the expression "Governor General" in its application to India means the Governor General of India in Council:

the expression "Governor" as respects "the presidency of Bengal" means the Governor General of India in Council, and as respects the presidencies of Madras and Bombay means the Governor in Council of the presidency, and in its applicatian to a colony includes the Lieutenant Governor or other officer administering the government of the colony:

the expressions "oath" and "swear," and other expressions relating thereto, include affirmation or declaration, affirm or declare, and expressions relating thereto, in cases where an affirmation or declaration is by law allowed instead of an oath: Mutiny Act, 96. Art. of War, 152, 153.

the expression "superior court" in the United Kingdom, means Her Majesty's High Court of Justice in England, the Court of Session in Scotland, and Her Majesty's High Court of Justice at Dublin:

the expression "supreme court" means, as regards India, any High Court or any Chief Court; and the expression "court of superior jurisdiction," as regards a colony, means a court exercising in that colony the like authority as the High Court of Justice in England:

the expression "civil court" means, with respect to any crime or offence, a court of ordinary criminal jurisdiction, and includes a court of summary jurisdiction:

the expression "prescribed" means prescribed by any rules of procedure made in pursuance of this Act:

the expression "misdemeanor," as far as regards Scotland, means a crime or offence, and so far as regards India means a crime punishable by fine and rigorous or simple imprisonment at the discretion of the court:

"Summary Jurisdiction Acts."

the expression "Summary Jurisdiction Acts" means—

(*a*) as regards England, the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and any Acts amending the same;

Definitions.

(*b*) as regards Scotland, the Summary Procedure Act, 1864, and any Acts amending the same; and — 27 & 28 Vict. c. 53.

(*c*) as regards Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district; and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and any Act amending the same: — 14 & 15 Vict. c. 93.

the expression "court of summary jurisdiction" means any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts or any Acts therein referred to; and as regards Scotland, means the sheriff or sheriff substitute, or any two justices of the peace sitting in open court; or any magistrate or magistrates to whom jurisdiction is given by the Summary Procedure (Scotland) Act, 1864; and as regards India, a colony, the Channel Islands and Isle of Man, means the court, justices, or magistrates who exercise jurisdiction in the like cases to those in which the Summary Jurisdiction Acts are applicable: — "Court of summary jurisdiction." — 27 & 28 Vict. c. 53.

the expression "county court judge" includes—

(1) in the case of Scotland, the sheriff or sheriff substitute; and

(2) in the case of Ireland, the judge of the Civil Bill Court:

Mutiny Act 87.

the expression "constable" includes a high constable and a commissioner, inspector, or other officer of police:

the expression "police authority" means the commissioner, commissioners, justices, watch committee, or other authority having the control of a police force:

The expression "horse" includes a mule, and the provisions of this Act shall apply to any beast of burden or draught of whatever description in like manner as if such beast were included in the expression "horse."

For the purpose of deducting pay a part of a day shall not be reckoned as a day, unless it consists of six hours or upwards.

FIRST SCHEDULE.

e Mutiny ct, 22.

Offences punishable with Corporal Punishment on Active Service.

All offences under this Act punishable with death.

SECOND SCHEDULE.

Form of Oath to be taken by a Master whose Apprentice has absconded, and of Justice's Certificate annexed. Mutiny Act, schedule.

I, *A. B.*, of do make oath, that I am by trade a and that was bound to serve as an apprentice to me in the said trade, by indenture dated the day of for the term of years; and that the said did on or about the day of abscond and quit my service without my consent; and that to the best of my knowledge and belief the said is aged about years.

Witness my hand at the day of one thousand eight hundred and

(Signed) *A. B.*

I hereby certify that the foregoing affidavit was sworn before me at this day of one thousand eight hundred and

(Signed) *C. D.*, Justice of the peace for

Form of Oath to be taken by a Master whose indentured Labourer in India or a Colony has absconded, and of Justice's Certificate annexed.

I of do make oath, that was bound to me to serve as an indentured labourer by indenture dated the day of for the term of years, and that the said did on or about the day of abscond and quit my service without my consent.

Witness my hand at the day of one thousand eight hundred and

(Signed) *A. B.*

I hereby certify, &c., [*as for apprentice*].

THIRD SCHEDULE. } [*Omitted as not applying to India.*]
FOURTH DITTO. }

FIFTH SCHEDULE.

FORM OF DESCRIPTIVE RETURN.

Mutiny Act schedule.

DESCRIPTIVE RETURN of who[a] at on the day of , and was committed to confinement at on the day of as a deserter [*or* absentee without leave] from the Bn. of the Regiment of .

Age	
Height	Feet. Inches.
Complexion	
Hair	
Eyes	
Marks	
In uniform or plain clothes	
Probable date and place of attestation	
Probable date of desertion or beginning of absence, and from what place.	
Name, occupation, and address of the person by whom or through whose means the deserter [*or* absentee without leave] was apprehended and secured.[b]	
Particulars in the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner and upon what grounds. The fullest possible details to be given.	

[a] After the word "who," to be inserted either the words "was apprehended," or "surrendered himself," as the case may be.

[b] It is important for the public service, and for the interest of the deserter or absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the justice in his own handwriting, or, under his direction, by his clerk.

I do hereby certify, that the prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he [a]

the before-mentioned corps, and I recommend [b] for a reward of s.

_____ *Signature* } *of committing magistrate.*
_____ *Residence*
_____ *Post Town*
_____ *Signature of prisoner.*
_____ *Signature of informant.*

Or where the prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming:

I hereby certify that the above-named prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence from a Secretary of State.

_____ *Signature.*
_____ *Residence.*
_____ *Post Town.*

42 & 43 VICTORIA. A. D. 1879.

CHAPTER XXXVIII.

An Act to amend the Slave Trade (East African Courts) Act, 1873.

[*11th August 1879.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.

1. THIS Act may be cited as the Slave Trade (East African Courts) Act, 1879.

36 & 37 Vict. c. 59.

This Act shall be construed as one with the Slave Trade (East African Courts) Act, 1873, and that Act and this Act may be cited together as the Slave Trade (East African Courts) Acts, 1873 and 1879.

Amendment of 36 & 37 Vict. c. 59. s. 2. as to definition of East African Courts.

2. WHEREAS by section two of the Slave Trade (East African Courts)

[a] Insert *is* or *is not a deserter* or *absentee without leave*, from or belongs or does not belong to, as the case may be.

[b] The justice will insert the name of the person to whom the reward is due, and the amount [5*s*., 10*s*., 15*s*., or 20*s*.,] which, in his opinion, should be granted in this particular case.

Act, 1873, the term "East African courts" is defined to mean the Vice-Admiralty Court at Aden, and any of Her Majesty's consuls within the dominions of the sovereigns of Zanzibar, Muscat, and Madagascar, when exercising jurisdiction in pursuance of the Orders in Council recited in the said Act, and it is expedient to amend the said definition: Be it therefore enacted as follows:

In the Slave Trade (East African Courts) Act, 1873, the term "East African courts" shall mean the Vice-Admiralty Court at Aden, and any of Her Majesty's consular officers within the dominions of the sovereigns of Zanzibar, Muscat, and Madagascar on whom jurisdiction in relation to vessels captured on suspicion of being engaged in the slave trade, or otherwise in relation to the slave trade, has been conferred by an Order in Council, made whether before or after the passing of this Act. 36 & 37 Vict. c. 59.

So much of section two of the Slave Trade (East African Courts) Act, 1873, as defines the term "East African courts" is hereby repealed, without prejudice to anything already done or suffered in pursuance thereof. 36 & 37 Vict. c. 59.

3. WHEREAS by section seven of the Slave Trade (East African Courts) Act, 1873, Her Majesty is authorized by Order in Council to direct that a treaty in relation to the slave trade made by or on behalf of Her Majesty with any of the foreign states therein mentioned in Arabia or Africa shall be deemed to be an existing East African Slave Trade treaty within the meaning of the above-mentioned Act: Amendment of 36 & 37 Vict. c. 59. s. 7. as to treaties to which the Act applies.

And whereas doubts have arisen as to whether the said section applies to a treaty with the government of Egypt, and it is expedient to remove such doubts: Be it therefore enacted as follows:

A treaty in relation to the slave trade made either before or after the passing of this Act by or on behalf of Her Majesty with the Government of Egypt shall be deemed to be a treaty in relation to the slave trade to which section seven of the Slave Trade (East African Courts) Act, 1873, applies, and Orders in Council in relation to such treaty may be made accordingly in pursuance of the said section. 36 & 37 Vict. c. 59.

4. EACH of the East African courts shall have the same jurisdiction in regard to a British vessel seized on suspicion of being engaged in or fitted out for the slave trade, and to the persons, slaves, goods, and effects on board thereof, when the vessel, in pursuance of any existing East African Slave Trade treaty, is seized and brought for trial by the commander or officer of any ship belonging to the foreign state with whom such treaty is made, as such court would have if the vessel had been seized by the commander or officer of any of Her Majesty's ships. Amendment of 36 & 37 Vict. c. 59. s. 3. as to jurisdiction over British vessels.

42 & 43 VICTORIA. A. D. 1879.

CHAPTER XLI.

An Act to enable guaranteed Railway Companies in India and the Secretary of State for India in Council to enter into Agreements with respect to the working of Railways, and with respect to Telegraphs, and to confer upon those Companies additional powers with respect to their undertakings.

[*11th August 1879.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Interpretation.

1. IN and for the purposes of this Act,—

the term "guaranteed company" means any of the companies specified in the schedule to this Act, and any railway company which for the time being constructs, maintains, or works a railway under any guarantee from or arrangement with the Secretary of State for India in Council.

The term "railway company" includes any person or body of persons being the owner or lessee of or working a railway, except the East Indian Railway Company, and except any railway company of which the undertaking is after the passing of this Act purchased by the Secretary of State for India in Council.

The term "railway" means a railway constructed before or after the passing of this Act, and belonging to the Secretary of State for India in Council, or situate in Her Majesty's territories in India, or in any territory in the East Indies belonging to any native prince or state in alliance with Her Majesty or to any European power, and includes any tramway so belonging or situate and worked by steam power, and any ferry so belonging or situate and worked or used in connection with a railway.

Power for guaranteed company to enter into working agreements.

2. A GUARANTEED company may from time to time make with the Secretary of State for India in Council, and carry into effect, or, with the sanction of the Secretary of State for India in Council, make with any railway company, and carry into effect, any agreement with respect to any of the following purposes; namely,

(*a*) the working, use, management, and maintenance of any railway or part of a railway:

(*b*) the supply of rolling stock and machinery necessary for any of the purposes herein-before mentioned, and of officers and servants for the conduct of the traffic of any such railway or part:

(*c*) the payments to be made and the conditions to be performed with respect to such working, use, management, and maintenance:

(*d*) the interchange, accommodation, and conveyance of traffic on, coming from, or destined for the respective railways of the contracting parties, and the fixing, collecting, apportionment, and appropriation of the revenues arising from that traffic:

(*e*) generally the giving effect to any such provisions or stipulations with respect to any of the purposes herein-before mentioned as the contracting parties may think fit and mutually agree on.

Power for guaranteed company to make agreements with the Secretary of State as to telegraphs.

3. A GUARANTEED company may from time to time make with the Secretary of State for India in Council, and carry into effect, any agreement with respect to any of the following purposes; namely,

(*a*) the surrendering, selling, or letting by the company to the Secretary of State of all or any part of the telegraphs belonging to the company:

(*b*) the doing of anything connected with the working, use, management, or maintenance of or otherwise relating to any telegraphs in India which belong to the Secretary of State in Council or a guaranteed company, or in which the Secretary of State in Council or any such company is for the time being interested, including the application of the revenue to arise from any such telegraphs:

(*c*) generally the giving effect to any such provisions or stipulations with respect to any such telegraphs as the Secretary of State in Council and any such company may think fit and mutually agree on.

Additional powers of guaranteed company.

4. A GUARANTEED company may from time to time, with the sanction of the Secretary of State for India in Council, exercise all or any of the following powers:

(*a*) they may use, maintain, farm, or work and take tolls in respect of any bridge or ferry used in connection with their railway:

(*b*) they may construct, use, maintain, and take tolls in respect of any road in connection with a railway bridge:

(*c*) they may provide any means of transport which may be required for the reasonable convenience of persons or goods carried or to be carried on their railway, but not between any places between which any company shall for the time being be carrying on the business of carriers by water:

provided always, that the capital outlay on the works mentioned in the three preceding sub-sections shall not in the case of any guaranteed company exceed in all ten lacs of rupees:

(*d*) they may make and carry into effect agreements with the Secretary of State for India in Council for the construction of rolling stock,

plant, or machinery used on or in connection with railways, or for leasing or taking on lease any rolling stock, plant, machinery, or equipments required for use on a railway.

A guaranteed company shall have, for the purpose of recovering any tolls which they are authorized to take under this section, such powers as may be conferred upon them by laws and regulations made by the Governor General of India in Council.

Secretary of State may delegate to Governor General right of sanction under this Act.

5. THE Secretary of State for India in Council may from time to time, with respect to any case or class of cases, delegate to the Governor General of India in Council the power to give any sanction required under this Act.

Powers of Act cumulative.

6. THE powers conferred by this Act shall be in addition to and not in derogation of any powers existing independently of this Act.

Validation of past agreements.

7. ANY agreement made before the passing of this Act by a guaranteed company for any of the purposes specified in this Act shall be as valid as if it had been made after the passing of this Act.

Short title.

8. THIS Act may be cited as the Indian Guaranteed Railways Act, 1879.

SCHEDULE.

The Great Indian Peninsular Railway Company.
The Madras Railway Company.
The Bombay, Baroda, and Central India Railway Company.
The Scinde, Punjab, and Delhi Railway Company.
The Eastern Bengal Railway Company.
The South Indian Railway Company.
The Oudh and Rohilcund Railway Company (Limited).

42 & 43 VICTORIA. A. D. 1879.

CHAPTER XLIII.

An Act to enable the Secretary of State in Council of India to create and issue Capital Stock in the United Kingdom in exchange for so much of the Annuity created under the East Indian Railway Company Purchase Act, 1879, and thereby made chargeable on the Revenues of India as may be purchased by the Secretary of State under that Act.

[*11th August 1879.*]

42 & 43 Vict. c. 206.

WHEREAS by a Bill now before Parliament for an Act the short title of which is the East Indian Railway Company Purchase Act, 1879, provision is pro-

posed to be made for transferring to and vesting in the Secretary of State in Council of India, hereinafter called the Secretary of State, the undertaking of the East Indian Railway Company, herein-after called the company, and all other the property of the company, save and except as therein mentioned, and for the creation of an annuity of one million four hundred and seventy-three thousand seven hundred and fifty pounds to be charged on the revenues of India, and to be paid to the company as therein mentioned for the purpose of being distributed among the proprietors of stock of the company:

And whereas by the said Bill (section forty-six) it is proposed to be enacted that the Secretary of State may purchase by agreement, from any proprietor of stock of the company, the amount of annuity to which such proprietor is entitled, or any portion thereof, paying in exchange for the same as thereby provided, to any such proprietor on the register in London, India four per centum stock, and to any such proprietor on the register at Calcutta, India four per centum stock or four per centum Rupee Debt in India, at the respective rates therein specified, subject to the proviso that no such purchase shall be made by means of India four per centum stock unless the Secretary of State shall be authorized by Parliament to create and issue such stock for the purpose:

And whereas with the view of providing for the extinguishment of so much of the public debt of India as may be so created and issued for that purpose, provision is proposed to be made by the said Bill (section fifty-one) for the creation of a sinking fund to be applied by the Secretary of State, in such manner and at such time or times as he shall think fit, in reduction of the public debt of India, created under the authority of Parliament. And it is proposed to be enacted that any stock or securities that may be cancelled or redeemed for the purposes of such reduction shall not be re-issued without the authority of Parliament:

And whereas it is expedient that the Secretary of State should be authorised to create and issue capital stock for the purposes of the East Indian Railway Company Purchase Act, 1879:

42 & 43 Vict. c. 206.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

When Act to come into operation.

1. This Act shall only come into operation in case the East Indian Railway Company Purchase Act shall pass into law.

Power to the Secretary of State in Council of India to create and issue so much

2. The Secretary of State may create and issue so much capital stock, bearing interest at the rate of four per centum per annum, as may be required for the purpose of completing any purchase or purchases authorized by the East Indian Railway Company Purchase Act, 1879, of any portion or portions of

capital stock as may be required for the purposes of 42 & 43 Vict. c. 206.

the said annuity of one million four hundred and seventy-three thousand seven hundred and fifty pounds, created under the authority of that Act.

As to terms of issue and date of payment off.

3. ANY capital stock created under this Act may be issued on such terms as may be determined by the Secretary of State, and may bear interest during such period and be paid off at par at such time as the Secretary of State may prescribe.

Transfer books of such capital stock to be kept.

4. IN case of the creation and issue of any capital stock under this Act there shall be kept, either at the office of the Secretary of State in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered and shall be signed by the party or parties making such assisgnments or transfers, or if such party or parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof, and no other mode of assigning or transferring the said capital stock, or any part thereof, or any interest therein, shall be good and available in law; and no stamp duties whatsoever shall be charged on the said transfers, or any of them.

Power to raise money for payment of principal money.

5. UPON or for the payment off or repayment of any principal money secured under this Act, the Secretary of State may at any time borrow or raise by the creation and issue of capital stock, bearing interest at such rate per centum per annum as the Secretary of State may think fit, all or any part of the amount of principal money required to be paid off or repaid, and so from time to time as all or any part of the principal money secured under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be paid off or repaid: Provided that nothing in this Act contained shall authorize the Secretary of State to re-issue any capital stock or securities which may, by the operation of the said sinking fund, be cancelled or redeemed in reduction of the public debt of India created under the authority of Parliament.

Capital stock and interest to be charged on revenues of India.

6. ALL capital stock to be issued under this Act, and the interest thereon, shall be charged on and payable out of the revenues of India in like manner as other liabilities incurred on account of the Government of India.

Half yearly returns of loans to in-

7. THE half-yearly returns to Parliament of loans raised in England chargeable upon the revenues of India shall include the amount of the sinking fund

created by the Secretary of State under the East Indian Railway Company Purchase Act, 1879, and the application thereof. clude sinking fund under 42 & 43 Vict. c. 206.

8. This Act should not prejudice or affect any power of raising or borrowing money vested in the Secretary of State at the time of passing thereof. Saving borrowing powers.

9. Any capital stock created under this Act shall be deemed to be East India stock within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide; and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding. Stock created hereunder to be deemed East India stock.

10. The provisions contained in the third section of the Act of the thirty-third and thirty-fourth Victoria, chapter ninety-three, and all other enactments in the said Act relating to or affecting such provisions shall be extended and be applicable to any capital stock created under this Act. 33 & 34 Vict. c. 93. s. 3. &c. extended to capital stock created under this Act.

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42 & 43 VICTORIA. A. D. 1879.

Chapter XLV.

An Act to authorize the issue of a sum out of the Consolidated Fund by way of loan to the Secretary of State for India.

[*11th August 1879.*]

Whereas the exigencies of the public service in India render it expedient to grant a temporary advance out of the consolidated fund of the United Kingdom to the Government of India:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Indian Advance Act, 1879. Short title.

2. The Treasury may advance during the current financial year to the Government of India any sum or sums not exceeding in the whole two million pounds. Temporary advance of 2,000,000*l.* out of Consolidated Fund to Government of India.

Every such advance shall be repaid by the Government of India, with interest at the rate of three per cent., in the manner provided in the schedule hereto, but the interest so received shall be repaid to the Government of India.

3. Every advance under this Act, and all interest repaid to the Government of India, shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof. Issue of advances and application of sums repaid.

Every sum repaid in respect of an advance under this Act shall be paid into the Exchequer, and a sum or sums equivalent thereto shall, not later than the end of the quarter of the financial year next after such payment, be charged on and issued out of the Consolidated Fund or the growing produce thereof, and paid to the commissioners for the reduction of the national debt, and applied by them as part of the new sinking fund under the Sinking Fund Act, 1875.

38 & 39 Vict. c. 45.

Accounts to be laid before the House of Commons.

4. An account of all receipts, payments, and transactions under this Act in every financial year shall be made up in such form and audited by the Comptroller and Auditor General in such manner as the Treasury from time to time direct, and shall be laid before the House of Commons within three months after the end of the said financial year.

Definitions.

5. In this Act, unless the context otherwise require,

the expression "Treasury" means the commissioners of Her Majesty's treasury:

the expression "Government of India" means one of Her Majesty's Principal Secretaries of State in the Council of India:

the expression "Comptroller and Auditor General" means the Comptroller General of the Exchequer and Auditor General of public accounts, and includes in his absence his deputy:

the expression "financial year" means the twelve months ending on the thirty-first day of March.

SCHEDULE.

	£
In the financial year 1880-81	290,000
In each of the six succeeding financial years . .	285,000

exclusive of interest, and at such time or times as may be agreed on between the Treasury and the Government of India.

42 & 43 VICTORIA. A. D. 1879.

Chapter LX.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[*15th August 1879.*]

Whereas the exigencies of the public service in India require that the

Secretary of State in Council of India should be enabled to raise money in the United Kingdom on the credit of the revenues of India:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to the Secretary of State in Council of India to raise any sum not exceeding 5,000,000 *l.*

1. IT shall be lawful for the Secretary of State in Council of India, at any time or times after the passing of this Act, to raise in the United Kingdom, for the service of the Government of India, any sum or sums of money not exceeding in the whole five millions of pounds sterling, of which two millions five hundred thousand pounds sterling may be raised by the creation and issue of capital stock bearing interest; and the whole or any portion of the remaining two millions five hundred thousand pounds sterling may be raised by the creation and issue of bonds, debentures, or bills, but not by the creation and issue of capital stock bearing interest, and so that the total sum raised by bills current at any time shall not exceed one million pounds sterling.

As to issue of bonds.

2. ALL bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State for India, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

As to issue of debentures.

3. ALL debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

4. ALL debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein, and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England.

Debentures and coupons for interest transferable by delivery.

5. ALL or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures; and the coupons for interest annexed to any debenture issued under the authority of this Act shall also pass by delivery.

As to issue of bills.

6. ALL bills issued under the authority of this Act may be issued under

the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

Description, currency of, and interest on bills.

7. A BILL issued under the authority of this Act shall be a bill for the payment of the principal sum named therein at the date therein mentioned, so that the date be not more than twelve months from the date of the bill; and the principal sum secured by such bill shall be payable either at the treasury of the Secretary of State in Council in London or at the Bank of England. Interest shall be payable in respect of such bill at such rate and in such manner as the Secretary of State in Council may determine.

Capital stock may be created and issued.

8. ANY capital stock created under the authority of this Act shall bear such a rate of interest as the Secretary of State in Council may think fit; and such capital stock may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock.

Transfer books of such capital stock to be kept.

9. IN case of the creation and issue of any such capital stock there shall be kept, either at the office of the Secretary of State in Council in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or any part thereof, or any interest therein, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Amount charged on revenues of India not to exceed 5,000,000*l.*

10. THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed five millions.

Power to raise money for payment of principal money.

11. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to

be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid; and the total amount raised under this section by the creation and issue of capital stock bearing interest shall not, at any one time, exceed two millions five hundred thousand pounds sterling.

Securities, &c. to be charged on revenues of India.

12. ALL bonds, debentures, and bills to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the government of the said territories.

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures issued under this Act.

13. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures and bills to be punishable as forgery of East India bonds.

14. ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bill issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Half-yearly returns of moneys raised on loan, &c. to be presented to Parliament.

15. PROVIDED always, that, at the end of each of the half years ending on the thirty-first day of March and the thirtieth day of September in every year, the Secretary of State in Council shall prepare or cause to be prepared a return of all loans raised in England under the provisions of this Act or of any other Acts, chargeable on the revenues of India, outstanding at the commencement of each half year, with the rates of interest and total amount payable thereon, and the date of the termination of each loan, the debt incurred during the half year, the moneys raised thereby during the half year, the loans paid off or discharged during the half year, and the loans outstanding at the close of the half year, stating, so far as the public convenience will allow, the purpose or service for which moneys have been raised during the half year; and that a similar return shall also be prepared of all loans raised in India; that such returns shall be presented to both houses of Parliament within fifteen days after the expiration of the said half-yearly periods as regards the loans raised in England, and within three months as regards the loans raised in India, if Parliament be then sitting, or if not sitting, then within one week after Parliament shall be next assembled; and the various

conditions in respect to terms, prices, dates of payment, and rates of interest on which bills have been issued during the half year under the authority of sections six and seven of this Act, shall be shown in the return in a form admitting of a comparison with previous years.

Repealing certain provisions of 40 & 41 Vict. c. 51.

16. THE provisions of the Act of the fortieth and forty-first Victoria, chapter fifty-one, section sixteen, so far as regards the preparation and presentation to Parliament half-yearly of a return of all stocks, loans, debts, and liabilities chargeable on the revenues of India, are hereby repealed.

Saving borrowing powers of Secretary of State in Council.

17. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretaty of State in Council at the time of passing thereof.

Stock created under this Act to be deemed East India stock.

18. ANY capital stock created under this Act shall be deemed to be East India stock, within the Act twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall otherwise provide; and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding.

Sec. 8, &c. of 33 & 34 Vict. c. 93. extended to capital stock created under this Act.

19. THE provisions contained in the third section of the Act of the thirty-third and thirty-fourth Victoria, chapter ninety-three, and all other enactments in the said Act relating to or affecting such provisions, shall be extended and be applicable to any capital stock created under this Act.

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42 & 43 VICTORIA. A. D. 1879.
CHAPTER LXXII.

An Act to provide for the re-hearing of Investigations into Shipping Casualties, and to amend the rules as to the mode of holding, and procedure at, such Investigations. [*15th August 1879.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; that is to say,

Short title.

1. THIS Act may be cited as the Shipping Casualties Investigations Act, 1879.

Re-hearing of and appeal against investigation into shipping casualty or misconduct of officer. 17 & 18 Vict. c. 104.

2. (1.) WHERE an investigation into the conduct of a master, mate, or engineer, or into a shipping casualty, has been held under the Merchant Shipping Act, 1854, or any Act amending the same, or under any provision for holding such investigations in a British possession, the Board of Trade may, in any case, and shall, if new and important evidence which could not be pro-

duced at the investigation has been discovered, or if for any other reason there has in their opinion been ground for suspecting a miscarriage of justice, order that the case be re-heard, either generally or as to any part thereof, and either by the court or authority by whom it was heard in the first instance, or by the wreck commissioner, or in England or Ireland by a judge of Her Majesty's High Court of Justice exercising jurisdiction in Admiralty cases, or in Scotland by the Senior Lord Ordinary, or any other judge in the Court of Session whom the Lord President of that court may appoint for the purpose, and the case shall be so re-heard accordingly.

(2.) Where, in any such investigation, a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer, and an application for a re-hearing under this section has not been made or has been refused, an appeal shall lie from the decision to the following courts; namely,

(*a*) if the decision is given in England or by a naval court, the Probate, Divorce, and Admiralty division of Her Majesty's High Court of Justice:

(*b*) if the decision is given in Scotland, either division of the Court of Session:

(*c*) if the decision is given in Ireland, the High Court of Admiralty, or the judge or division of Her Majesty's High Court of Justice exercising jurisdiction in Admiralty cases.

(3.) Any re-hearing or appeal under this section shall be subject to and conducted in accordance with such conditions and regulations as may from time to time be prescribed by general rules made under section thirty of the Merchant Shipping Act, 1876. 39 & 40 Vict. c. 80.

Rules as to investigations into shipping casualties and misconduct of officers.

3. (1.) THE list of persons approved as assessors for the purpose of formal investigations into shipping casualties shall be in force for three years only, but persons entered in any such list may be approved for any subsequent list. The list of those persons in force at the passing of this Act shall continue in force until the end of the year one thousand eight hundred and eighty, but nothing in this section shall affect the power of the Secretary of State to withdraw his approval of any name on any such list or to approve of any additional name.

(2.) The assessor or assessors for each such investigation shall, instead of being appointed by the commissioner, justices, or other authority holding the investigation, be appointed in such manner and according to such regulations as may be from time to time prescribed by general rules made under section thirty of the Merchant Shipping Act, 1876. 39 & 40 Vict. c. 80.

(3.) Where any such investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master,

mate, or engineer, it shall be held with the assistance of not less than two assessors having experience in the merchant service.

17 & 18 Vict. c. 104. 25 & 26 Vict. c. 63.

(4.) A master, mate, or engineer shall not be required to deliver his certificate under section four hundred and thirty-eight of the Merchant Shipping Act, 1854, or section twenty-four of the Merchant Shipping Act, 1862, unless the certificate is suspended or cancelled, and the words "or is to be" in the latter of those sections are hereby repealed.

(5.) Investigations into shipping casualties shall be held in some townhall, assize or county court, public building, or in some other suitable place to be determined according to general rules made for the purpose by the Lord High Chancellor of Great Britain, and unless no other suitable place is in the opinion of the Board of Trade available, shall not be held in a court ordinarily used as a police court.

Rules to be laid before Parliament.

4. Any general rule made in pursuance of this Act shall be laid before both Houses of Parliament within thirty days after it is made, if Parliament be then sitting, or if not, within thirty days after the commencement of the then next ensuing session.

Commencement of Act.

5. This Act shall commence and come into operation on the first day of November one thousand eight hundred and seventy-nine: Provided that any rules which may be required for the purposes of this Act may be made at any time before the commencement of this Act, but, if so made, shall not come into operation until the commencement of this Act.

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43 VICTORIA. A. D. 1880.

Chapter III.

An Act to amend the Law relating to the Salaries and Allowances of certain Officers in India; and for other purposes relating thereto.

[*15th March 1880.*]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Indian Salaries and Allowances Act, 1880.

Power to regulate certain allowances for equipment, &c.

2. It shall be lawful for the Secretary of State in Council of India from time to time to fix, alter, or abolish the allowances for equipment and voyage of the several officers specified in the first schedule to this Act, or any of them.

Power to regulate certain ecclesiastical salaries.

3. It shall be lawful for the Secretary of State in Council of India from time to time to fix and alter the salaries, and to fix, alter, or abolish the

allowances of the bishops and archdeacons of Calcutta, Madras, and Bombay, or any of them:

Provided that nothing in this section shall affect the salary or allowances of any person who is such bishop or archdeacon at the passing of this Act.

Charges on Indian revenues not to be increased.

4. NOTHING in this Act shall authorize the imposition of any additional charge on the revenues of India.

Repeal of enactments in second schedule.

5. THE enactments described in the second schedule to this Act are hereby repealed to the extent in that schedule mentioned.

SCHEDULES.

FIRST SCHEDULE.

The Governor General of India and the Members of his Council.
The Governors of Madras and Bombay and the Members of their Councils.
The Commander-in-Chief of the Forces in India.
The Commanders-in-Chief of Madras and Bombay.
The Bishops and Archdeacons of Calcutta, Madras, and Bombay.

SECOND SCHEDULE.

53 Geo. 3. c. 155.	... in part	...	An Act for continuing in the East India Company for a further term the possession of the British territories in India, together with certain exclusive privileges; for establishing further regulations for the government of the said territories, and the better administration of justice within the same, and for regulating the trade to and from the places within the limits of the said company's charter. In part; namely— section eighty-nine from "and the said Court of Directors" to the end of the section.
4 Geo. 4. c. 71.	... in part	...	An Act for defraying the charge of retiring pay, pensions, and other expense of that nature of His Majesty's forces serving in India, for establishing the pensions of the bishop, archdeacons, and judges, for regulating ordinations, and for establishing a court of judicature at Bombay. In part; namely— in section three, the words "and to any such archdeacon who shall have exercised in the East Indies or parts aforesaid for ten years the office of archdeacon," and the words "or archdeacon" at the end of this section.

SECOND SCHEDULE—*continued.*

3 & 4 Will. 4. c. 85. ... ... in part	An Act for effecting an arrangement with the East India Company, and for the better government of His Majesty's Indian territories till the thirtieth day of April one thousand eight hundred and fifty-four. In part; namely— section seventy-six, from "and the said Court of Directors" to the end of the section, and section ninety-one.

43 VICTORIA. A. D. 1880.

CHAPTER X.

An Act to enable the Secretary of State in Council of India to raise money in the United Kingdom for the purpose of paying off or redeeming Debentures of the East India Railway Company.

[*19th March 1880.*]

42 & 43 Vict. c. 206.

WHEREAS by virtue of the East Indian Railway Company Purchase Act, 1879, the undertaking of the East Indian Railway Company, and all other the property of the said company, save and except as therein mentioned, have been transferred to and vested in the Secretary of State in Council of India, herein-after called the Secretary of State, subject to such debts and liabilities as have been incurred by the said company to the East India Company or to any person or persons with the sanction of the East India Company or of the Secretary of State, and to interest on such of the said debts as carry interest:

And whereas among such debts and liabilities are included the principal moneys and interest secured by the debentures mentioned in the schedule hereto:

And whereas the principal moneys secured by the said debentures, amounting in all to two million nine hundred and fifty thousand pounds, will become payable at the respective times specified in the said schedule:

And whereas it is expedient that provision should be made for paying off or redeeming the said debentures as and when the principal moneys secured thereby become payable:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to Secretary of State to raise

1. IT shall be lawful for the Secretary of State at any time or times to raise in the United Kingdom for the service of the Government of India

such sum or sums of money, not exceeding in the whole two million nine hundred and fifty thousand pounds, as may be required for the purpose of paying off or redeeming the principal moneys, secured by the debentures specified in the schedule hereto, such sum or sums to be raised by the creation and issue of bonds, debentures, or capital stock bearing interest, or partly by one of such modes and partly by another or others. any sum not exceeding 2,950,000*l.*

2. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of India, and countersigned by the Secretary of State, or one of his under secretaries, or his assistant under secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the Secretary of State may think fit. As to issue of bonds.

3. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State. As to issue of debentures.

4. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in London or at the Bank of England. As to payment of principal and interest on debentures.

5. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable by the delivery of such debentures; and the coupons for interest annexed to any debenture iss ued under the authority of this Act shall also pass by delivery. Debentures and coupons for interest transferable by delivery.

6. Any capital stock created under the authority of this Act shall bear such a rate of interest as the Secretary of State may think fit; and such capital stock may be issued on such terms as may be determined by the Secretary of State; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State may prescribe previously to the issue of such capital stock. Interest, &c. of capital stock.

7. In case of the creation and issue of any such capital stock there shall be kept, either at the office of the Secretary of State in London or at the Bank of England, books wherein entries shall be made of the said capital stock, and wherein all assignments or transfers of the same, or any part thereof, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their Transfer books of such capital stock to be kept.

hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or any part thereof, or any interest therein, shall be good and available in law, and no stamp duties whatsoever shall be charged on the said transfers or any of them.

Amount to be charged on revenues of India.

8. THE whole amount of the principal moneys to be charged on the revenues of India under this Act shall not exceed two millions nine hundred and fifty thousand pounds.

Power to raise money for payment of principal money.

9. UPON or for the repayment of any principal money secured under the authority of this Act, the Secretary of State may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money required to be repaid.

Securities, &c. to be charged on revenues of India.

10. ALL bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, shall be charged on and payable out of the revenues of India, in like manner as other liabilities incurred on account of the Government of India.

Provisions as to composition for stamp duties on India bonds extended to bonds and debentures issued under this Act.

11. THE provisions contained in section four of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter sixty-four, with respect to the composition and agreement for the payment by the East India Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures and bills to be punishable as forgery of East India bonds.

12. ALL provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any East India bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture or bond issued under the authority of this Act.

Saving borrowing powers of Secretary of State.

13. THIS Act shall not prejudice or affect any power of raising or borrowing money vested in the Secretary of State at the time of passing thereof.

Stock created under this Act to be deemed East India stock.

14. ANY capital stock created under this Act shall be deemed to be East India stock, within the Act of the twenty-second and twenty-third Victoria, chapter thirty-five, section thirty-two, unless and until Parliament shall other-

wise provide; and any capital stock created under this Act shall be deemed to be and shall mean India stock within the Act of the twenty-sixth and twenty-seventh Victoria, chapter seventy-three, anything in the said last-mentioned Act to the contrary notwithstanding.

Sect. 3. &c. of 33 & 34 Vict. c. 93. extended to capital stock created under this Act.

15. The provisions contained in the third section of the Act of the thirty-third and thirty-fourth Victoria, chapter ninety-three, and all other enactments in the said Act relating to or affecting such provisions, shall be extended and be applicable to any capital stock created under this Act.

34 & 35 Vict. c. 29. extended to all capital stock issued by the Secretary of State under the authority of Parliament

16. The provisions contained in the Act of the thirty-fourth and thirty-fifth Victoria, chapter twenty-nine, shall be extended and be applicable to all capital stock issued or to be issued by the Secretary of State under the authority of Parliament.

Short title.

17. This Act may be cited as the East India Loan (East Indian Railway Debentures) Act, 1880.

SCHEDULE.

Redeemable Debentures of East Indian Railway Company.

Principal moneys secured.	When payable.	Rate of interest per annum.
£		
1,000,000	1 January 1881	4½ per cent.
1,279,850	12 July 1882	4 per cent.
230,150	1 December 1882	4 per cent.
440,000	19 March 1883	4 per cent.
2,950,000		

43 VICTORIA. A. D. 1880.

Chapter XI.

An Act to make Powers of Attorney and Requests for Transmission of Dividend Warrants by Post relating to India Five per centum Stock applicable to India Four per centum Stock.

[*19th March 1880.*]

Whereas, in accordance with the conditions under which India five per cent. stock has been issued, the Secretary of State in Council of India has given notice that it is his intention to redeem that stock at par on the fifth day of July one thousand eight hundred and eighty:

And whereas the said Secretary of State has offered to holders of India five per cent. stock in exchange for such stock, and in lieu of repayment in cash, a like amount of India four per cent. stock bearing interest from the fifth day of April one thousand eight hundred and eighty, together with the payment on the fifth day of July one thousand eight hundred and eighty of one pound ten shillings per cent. on the amount of stock exchanged, so as to make up a sum equal to interest thereon at the rate of five pounds per cent. per annum for the half year ending on the fifth day of July one thousand eight hundred and eighty:

And whereas it is expedient that powers of attorney and requests for transmission of dividend warrants by post relating to India five per cent. stock should be made to extend and apply to India four per cent stock:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as India Stock (Powers of Attorney) Act, 1880.

Powers of attorney for sale and transfer of India five per cent. stock to apply to India four per cent. stock.

2. EVERY power of attorney in force at the time of the passing of this Act for the sale and transfer of any India five per cent. stock shall, unless it be legally revoked or become void, remain in force for the purpose of enabling the attorney or attorneys therein named or referred to to receive and give receipts for any principal sum of such India five per cent. stock, and to sell and transfer any India four per cent. stock that may be accepted in exchange for such five per cent. stock, and to receive the consideration money and give receipts for the same.

Powers of attorney for receipt of dividends on India five per cent. stock to apply to India four per cent. stock.

3. EVERY power of attorney in force at the time of the passing of this Act for the receipt of dividends on any India five per cent. stock shall, unless it be legally revoked or become void, remain in force for the purpose of enabling the attorney or attorneys therein named or referred to to receive the dividends to accrue on India four per cent. stock, and also to receive the said payment of one pound ten shillings per cent. on India five per cent. stock which will become payable on the fifth day of July one thousand eight hundred and eighty.

Requests for post dividend warrants in respect of India five per cent. stock to apply to India four per cent. stock.

4. EVERY request for the transmission of dividend warrants by post relating to India five per cent. stock in force at the time of the passing of this Act, or which may hereafter be made, in pursuance of the Act of the thirty-fourth and thirty-fifth Victoria, chapter twenty-nine, shall, unless it be legally revoked or become void, extend and apply to India four per cent. stock as if the stock mentioned in such request were therein described as India four per cent. stock.

43 & 44 VICTORIA. A. D. 1880.

CHAPTER XVI.

An Act to amend the Law relating to the Payment of Wages and Rating of Merchant Seamen.

[*2nd August 1880.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title and construction.

1. THIS Act may be cited as the Merchant Seamen (Payment of Wages and Rating) Act, 1880.

This Act shall be construed as one with the Merchant Shipping Acts, 1854 to 1876, and those Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1880.

17 & 18 Vict. c. 104. &c.

Conditional advance notes illegal.

2. (1.) AFTER the first day of August one thousand eight hundred and eighty-one, any document authorizing or promising, or purporting to authorize or promise, the future payment of money on account of a seaman's wages conditionally on his going to sea from any port in the United Kingdom, and made before those wages have been earned, shall be void.

(2.) No money paid in satisfaction or in respect of any such document shall be deducted from a seaman's wages, and no person shall have any right of action, suit, or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(3.) Nothing in this section shall affect any allotment note made under the Merchant Shipping Act, 1854.

17 & 18 Vict. c. 104.

Amendment of 17 & 18 Vict. c. 104. s. 169. as to allotment notes.

3. (1.) EVERY agreement with a seaman which is required by the Merchant Shipping Act, 1854, to be made in the form sanctioned by the Board of Trade shall, if the seaman so require, stipulate for the allotment of any part not exceeding one-half of the wages of the seaman in favour of one or more of the persons mentioned in section one hundred and sixty-nine of the Merchant Shipping Act, 1854, as amended by this section.

17 & 18 Vict. c. 104.

(2.) The allotment may also be made in favour of a savings bank, and in that case shall be in favour of such persons and carried into effect in such manner as may be for the time being directed by regulations of the Board of Trade, and section one hundred and sixty-nine of the Merchant Shipping Act, 1854, shall be construed as if the said persons were named therein.

17 & 18 Vict. c. 104.

(3.) The sum received in pursuance of such allotment by a savings bank shall be paid out only on an application made, through a superintendent of a mercantile marine office or the Board of Trade, by the seaman himself, or, in

case of death, by some person to whom the same might be paid under section one hundred and ninety-nine of the Merchant Shipping Act, 1854.

17 & 18 Vict. c. 104.

(4.) A payment under an allotment note shall begin at the expiration of one month, or, if the allotment is in favour of a savings bank, of three months, from the date of the agreement, or at such later date as may be fixed by the agreement, and shall be paid at the expiration of every subsequent month, or of such other periods as may be fixed by the agreement, and shall be paid only in respect of wages earned before the date of payment.

(5.) For the purposes of this section "savings bank" means a savings bank established under one of the Acts mentioned in the first schedule to this Act.

Rules as to payment of wages.

4. In the case of foreign-going ships—

(1.) The owner or master of the ship shall pay to each seaman on account, at the time when he lawfully leaves the ship at the end of his engagement, two pounds, or one-fourth of the balance due to him, whichever is least; and shall pay him the remainder of his wages within two clear days (exclusive of any Sunday, Fast Day in Scotland, or Bank Holiday) after he so leaves the ship.

(2.) The master of the ship may deliver the account of wages mentioned in section one hundred and seventy-one of the Merchant Shipping Act, 1854, to the seaman himself at or before the time when he leaves the ship instead of delivering it to a superintendent of a mercantile marine office.

17 & 18 Vict. c. 104.

(3.) If the seaman consents, the final settlement of his wages may be left to the superintendent of a mercantile marine office under regulations to be made by the Board of Trade, and the receipt of the superintendent shall in that case operate as a release by the seaman under section one hundred and seventy-five of the Merchant Shipping Act, 1854.

17 & 18 Vict. c. 104.

(4.) In the event of the seaman's wages or any part thereof not being paid or settled as in this section mentioned, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability, or to any other cause not being the act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

(5.) Where a question as to wages is raised before the superintendent of a mercantile marine office between the master or owner of a ship, and a seaman or apprentice, if the amount in question does not exceed five pounds, the superintendent may adjudicate, and the decision of the superintendent in the matter shall be final; but if the superintendent is of opinion that the question is one which ought to be decided by a court of law he may refuse to decide it.

Penalty for

5. Where a ship is about to arrive, is arriving, or has arrived at the end

of her voyage, every person, not being in Her Majesty's service or not being duly authorized by law for the purpose, who—

being on board ship without permission before seamen leave. See 17 & 18 Vict. c. 104. s. 237.

(*a*) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens); or,

(*b*) being on board the ship, remains there after being warned to leave by the master, or by a police officer, or by any officer of the Board of Trade or of the Customs,

shall for every such offence be liable on summary conviction to a fine not exceeding twenty pounds, or, at the discretion of the court, to imprisonment for any term not exceeding six months; and the master of the ship or any officer of the Board of Trade may take him into custody, and deliver him up forthwith to a constable to be taken before a court or magistrate capable of taking cognizance of the offence, and dealt with according to law.

Provisions contained in section five to apply to ships belonging to foreign countries in certain cases.

6. WHENEVER it is made to appear to Her Majesty—

(1) that the Government of any foreign country has provided that unauthorized persons going on board of British ships which are about to arrive or have arrived within its territorial jurisdiction shall be subject to provisions similar to the provisions contained in the last preceding section as applicable to persons going on board British ships at the end of their voyages; and

(2) that the Government of such foreign country is desirous that the provisions of the said section shall apply to unauthorized persons going on board of ships belonging to such foreign country within the limits of British territorial jurisdiction;

Her Majesty may, by Order in Council, declare that the provisions of the said last preceding section shall apply to the ships of such country; and thereupon so long as the order remains in force those provisions shall apply and have effect as if the ships of such country were British ships arriving, about to arrive, or which had arrived at the end of their voyage.

Rating of seamen.

7. A SEAMAN shall not be entitled to the rating of A. B., that is to say, of an able-bodied seaman, unless he has served at sea for four years before the mast, but the employment of fishermen in registered decked fishing vessels shall only count as sea service up to the period of three years of such employment; and the rating of A. B. shall only be granted after at least one year's sea service in a trading vessel in addition to three or more years sea service on board of registered decked fishing vessels.

Such service may be proved by certificates of discharge, by a certificate of service from the Registrar General of Shipping and Seamen (which certificate the Registrar shall grant on payment of a fee not exceeding sixpence), and in

which shall be specified whether the service was rendered in whole or in part in steam ship or in sailing ship, or by other satisfactory proof.

Nothing in this section shall affect a seaman who has been rated and has served as A.B. before the passing of this Act.

Power of court to rescind contract between owner or master and seaman or apprentice.

8. WHERE a proceeding is instituted in or before any court in relation to any dispute between an owner or master of a ship and a seaman or apprentice to the sea service, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if, having regard to all the circumstances of the case, they think it just so to do, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

For the purposes of this section the term "court" includes any magistrate or justice having jurisdiction in the matter to which the proceeding relates.

Licensing of seamen's lodging-houses.

9. IT shall be lawful for the sanitary authority of any seaport town to pass byelaws for the licensing of seamen's lodging-houses, for the periodical inspection of the same, for the granting to the persons to whom such licenses are given, the authority to designate their houses as seamen's licensed lodging-houses, and for prescribing the penalties for the breach of the provisions of the byelaws: Provided always, that no such byelaws shall take effect till they have received the approval of the Board of Trade.

Desertion and absence without leave.

10. THE following provisions shall from the commencement of this Act have operation within the United Kingdom:

A seaman or apprentice to the sea service shall not be liable to imprisonment for deserting or for neglecting or refusing without reasonable cause to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of his ship's sailing from any port, or for absence at any time without leave and without sufficient reason from his ship or from his duty.

Whenever either at the commencement or during the progress of any voyage any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee may, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, convey him on board: Provided that if the seaman or apprentice so requires he shall first be taken before some court capable of taking cognizance of the matters to be dealt with according to law; and that if it appears to the court before which the case is brought that

the seaman or apprentice has been conveyed on board or taken before the court on improper or insufficient grounds, the master, mate, owner, ship's husband, or consignee, as the case may be, shall incur a penalty not exceeding twenty pounds, but such penalty, if inflicted, shall be a bar to any action for false imprisonment.

If a seaman or apprentice to the sea service intends to absent himself from his ship or his duty, he may give notice of his intention, either to the owner or to the master of the ship, not less than forty-eight hours before the time at which he ought to be on board his ship; and in the event of such notice being given, the court shall not exercise any of the powers conferred on it by section two hundred and forty-seven of the Merchant Shipping Act, 1854. 17 & 18 Vict. c. 104.

Subject to the foregoing provision of this section, the powers conferred by section two hundred and forty-seven of the Merchant Shipping Act, 1854, may be exercised, notwithstanding the abolition of imprisonment for desertion and similar offences, and of apprehension without warrant. 17 & 18 Vict. c. 104.

Nothing in this section shall affect section two hundred and thirty-nine of the Merchant Shipping Act, 1854. 17 & 18 Vict. c. 104.

Extension to seamen of 38 & 39 Vict. c. 90.

11. THE thirteenth section of the Employers and Workmen Act, 1875, shall be repealed in so far as it operates to exclude seamen and apprentices to the sea service from the said Act, and the said Act shall apply to seamen and apprentices to the sea service accordingly; but such repeal shall not, in the absence of any enactment to the contrary, extend to or affect any provision contained in any other Act of Parliament passed, or to be passed, whereby workman is defined by reference to the persons to whom the Employers and Workmen Act, 1875, applies. 38 & 39 Vict. c. 90.

Repeal of enactments in second schedule.

12. THE enactments described in the second schedule to this Act shall be repealed as from the commencement of this Act within the United Kingdom.

Provided that this repeal shall not affect—

(1) anything duly done or suffered before the commencement of this Act under any enactment hereby repealed; or

(2) any right or privilege acquired or any liability incurred before the commencement of this Act, under any enactment hereby repealed; or

(3) any imprisonment, fine, or forfeiture, or other punishment incurred or to be incurred, in respect of any offence committed before the commencement of this Act, under any enactment hereby repealed; or

(4) the institution or prosecution to its termination of any investigation or legal proceeding, or any other remedy for prosecuting any such

offence, or ascertaining, enforcing, or recovering any such liability, imprisonment, fine, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on as if this repeal had not been enacted.

SCHEDULES.

FIRST SCHEDULE.

Chapter.	Savings Banks.
24 & 25 Vict. c. 14	Post Office Savings Banks.
26 & 27 Vict. c. 87	Trustee Savings Banks.
17 & 18 Vict. c. 104. s. 180 . . .	Trustee Savings Banks.
19 & 20 Vict. c. 41	Seamen's Savings Banks.

SECOND SCHEDULE.

(17 & 18 Vict. c. 104. in part.)

The Merchant Shipping Act, 1854, in part: namely,

In section two hundred and forty-three, sub-section (1), the words "to imprisonment for any period not exceeding twelve weeks with or without hard labour; and also."

In section two hundred and forty-three, sub-section (2), the words "to imprisonment for any period not exceeding ten weeks with or without hard labour, and also at the discretion of the court."

Section two hundred and forty-six.

In section two hundred and forty-seven the words "instead of committing the offender to prison;"

And section two hundred and forty-eight.

43 & 44 VICTORIA. A. D. 1880.

CHAPTER XVIII.

An Act to amend the Merchant Shipping Act, 1854.

[*2nd August 1880.*]

17 & 18 Vict. c. 104.

WHEREAS it is expedient to amend the Merchant Shipping Act, 1854:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this

present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the Merchant Shipping Act (1854) Amendment Act, 1880.

Amendment of s. 37 of 17 & 18 Vict. c. 104. as to numbers of joint owners of ships.

2. SUB-SECTION two of section thirty-seven of the recited Act is hereby repealed, and in place thereof it is enacted that the following words shall be deemed and be taken to be the second sub-section of the thirty-seventh section of the recited Act, and the recited Act shall be read and construed as if the second sub-section of the thirty-seventh section thereof had been originally expressed in the following words; videlicet,

Subject to the provisions with respect to joint owners or owners by transmission herein-after contained, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner.

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43 & 44 VICTORIA. A. D. 1880.

CHAPTER XLIII.

An Act to provide for the safe carriage of Grain Cargoes by Merchant Shipping.

[*7th September 1880.*]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction. 17 & 18 Vict. c. 104. &c.

1. THIS Act may be cited as the Merchant Shipping (Carriage of Grain) Act, 1880, and shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and together with those Acts may be cited as the Merchant Shipping Acts, 1854 to 1880.

Commencement of Act.

2. THIS Act shall come into operation on the first day of January one thousand eight hundred and eighty-one (which day is in this Act referred to as the commencement of this Act).

Obligation to take precautions to prevent grain cargo from shifting.

3. WHERE a grain cargo is laden on any British ship all necessary and reasonable precautions (whether prescribed by this Act or not) shall be taken in order to prevent the grain cargo from shifting.

If such precautions have not been taken in the case of any such ship, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending her to sea, shall each be liable to a penalty not exceeding three hundred pounds, and the owner of the ship shall also be liable to the same penalty, unless he shows that he took all reasonable means

to enforce the observance of this section, and was not privy to the breach thereof.

Precautions against shifting of grain cargo laden in port in Mediterranean or Black Sea, or on coast of North America.

4. WHERE a British ship laden with a grain cargo at any port in the Mediterranean or Black Sea is bound to ports outside the Straits of Gibraltar, or where a British ship is laden with a grain cargo on the coast of North America, the following precautions to prevent the grain cargo from shifting shall be adopted; that is to say,

(*a*) There shall not be carried between the decks, or, if the ship has more than two decks, between the main and upper decks, any grain in bulk, except such as may be necessary for feeding the cargo in the hold, and is carried in properly constructed feeders.

(*b*) Where grain (except such as may be carried in properly constructed feeders) is carried in bulk in any hold or compartment, and proper provision for filling up the same by feeders is not made, not less than one-fourth of the grain carried in the hold or compartment (as the case may be) shall be in bags supported on suitable platforms laid upon the grain in bulk: Provided that this regulation with respect to bags shall not apply—

(i) to oats, or cotton seed; nor

(ii) to a ship which is a sailing ship of less than four hundred tons registered tonnage, and is not engaged in the Atlantic trade; nor

(iii) to a ship laden at a port in the Mediterranean or Black Sea if the ship is divided into compartments which are formed by substantial transverse partitions, and are fitted with longitudinal bulkheads or such shifting boards as hereafter in this section mentioned, and if the ship does not carry more than one-fourth of the grain cargo, and not more than one thousand five hundred quarters, in any one compartment, bin, or division, and provided that each division of the lower hold is fitted with properly constructed feeders from the between decks; nor

(iv) to a ship in which the grain cargo does not exceed one-half of the whole cargo of the ship, and the rest of the cargo consists of cotton, wool, flax, barrels or sacks of flour, or other suitable cargo so stowed as to prevent the grain in any compartment, bin, or division from shifting.

(*c*) Where grain is carried in the hold or between the decks, whether in bags or bulk, the hold or the space between the decks shall be divided by a longitudinal bulkhead or by sufficient shifting boards which extend from deck to deck or from the deck to the keelson and are properly secured, and if the grain is in bulk are fitted grain-tight with proper fillings between the beams.

(*d*) In loading, the grain shall be properly stowed, trimmed, and secured.

In the event of the contravention of this section in the case of any ship, reasonable precautions to prevent the grain cargo of that ship from shifting shall be deemed not have been taken, and the owner and master of the ship and any agent charged with loading her or sending her to sea shall be liable accordingly to a penalty under this Act.

Provided that nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions which, although not mentioned in this section, are reasonably required to prevent grain cargo from shifting.

Exemption from precautions specified in this Act for ships laden in Mediterranean or Black Sea, or on coast of North America.

5. The precautions required by this Act to be adopted by ships laden with a grain cargo at a port in the Mediterranean or Black Sea, or on the coast of North America, shall not apply to ships loaded in accordance with regulations for the time being approved by the Board of Trade; nor to any ship constructed and loaded in accordance with any plan approved by the Board of Trade.

Notice by master of kind and quantity of grain cargo.

6. Before a British ship laden with grain cargo at any port in the Mediterranean or Black Sea, bound to ports outside the Straits of Gibraltar, or laden with grain cargo on the coast of North America, leaves her final port of loading, or within forty-eight hours after leaving such port, the master shall deliver or cause to be delivered to the British consular officer, or, if it is in her Majesty's dominions, to the principal officer of Customs at that port, a notice stating—

(1) the draught of water and clear side, as defined by section five of the Merchant Shipping Act, 1871, and section four of the Merchant Shipping Act, 1873, of the said ship after the loading of her cargo has been completed at the said last port of loading;

34 & 35 Vict. c. 110. 36 & 37 Vict. c. 85.

(2) and also stating the following particulars in respect to the grain cargo; namely,

(*a*) the kind of grain and the quantity thereof, which quantity may be stated in cubic feet, or in quarters, or bushels, on in tons weight; and

(*b*) the mode in which the grain cargo is stowed; and

(*c*) the precautions taken against shifting.

The master shall also deliver a similar notice to the principal collector or other proper officer of Customs in the United Kingdom, together with the report required to be made by the Customs Consolidation Act, 1876, on the arrival of the ship in the United Kingdom.

39 & 40 Vict. c. 36. ss. 50, 51.

Every such notice shall be sent to the Board of Trade as soon as practicable by the officer receiving the same.

If the master fails to deliver any notice required by this section he shall be liable to a penalty not exceeding one hundred pounds: Provided always,

that the Board of Trade may, by notice published in the London Gazette, or in such other way as it may deem expedient, exempt ships laden at any particular port or any class of such ships from the provisions of this section.

Penalty for false statement in notice.

7. Any master of a ship, who in any notice required by this Act wilfully makes any false statement or wilfully omits any material particular, shall be liable to a penalty not exceeding one hundred pounds.

Power of Board of Trade for enforcing of Act. 17 & 18 Vict. c. 104.

8. For the purpose of securing the observance of this Act, any officer having authority in that behalf from the Board of Trade, either general or special, shall have the same power as an inspector appointed under the Merchant Shipping Act, 1854, and shall also have power to inspect any grain cargo, and the mode in which the same is stowed.

Prosecution of offences and recovery of penalties. 17 & 18 Vict. c. 104.

9. Every offence punishable under this Act may be prosecuted summarily and every penalty under this Act may be recovered and enforced summarily in like manner as offences and penalties under the Merchant Shipping Act, 1854, and the Acts amending the same.

Definitions.

10. For the purposes of this Act—

The expression "grain" means any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

The expression "ship laden with a grain cargo" means a ship carrying a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship; and such third shall be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.

Repeal of 39 & 40 Vict. c. 80. s. 22.

11. Section twenty-two of the Merchant Shipping Act, 1876, is hereby repealed as from the commencement of this Act:

Provided that any offence against that section committed before the commencement of this Act may be prosecuted, and the penalty recovered and enforced, in like manner as if the said section had continued to remain in force.

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44 VICTORIA. A. D. 1881.

Chapter III.

An Act to further improve the Administration of Justice in the Judicial Committee of the Privy Council.

[*17th February 1881.*]

Whereas it is expedient that further provision should be made for the administration of justice in the Judicial Committee of the Privy Council:

Be it therefore enacted by the Queen's most excellent Majesty, by and

with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Lords Justices of Appeal to be members of Judicial Committee.

1. EVERY person holding or who has held in England the office of a Lord Justice of Appeal shall, if a member of Her Majesty's Privy Council in England, be a member of the Judicial Committee of the Privy Council.

Short title.

2. THIS Act may be cited as the Judicial Committee Act, 1881.

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44 VICTORIA. A.D. 1881.

CHAPTER VII.

An Act to authorize the Secretary of State for India in Council to sell a piece of land in Charles Street, Westminster, to the Commissioners of Her Majesty's Works and Public Buildings for the Public Service.

[*29th March 1881.*]

28 & 29 Vict. c. 32.

WHEREAS in pursuance of the India Office Site and Approaches Act, 1865, the Secretary of State in Council of India purchased certain land, and such land is now vested in Her Majesty, her heirs and successors, for the service of the Government of India, according to the provisions of the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter one hundred and six, intituled "An Act for the better government of India," in this Act referred to as the India Act, 1858:

21 & 22 Vict. c. 106.

And whereas that portion of the land so purchased and vested in Her Majesty as aforesaid which is described in the schedule to this Act, and delineated on the plan deposited as in the schedule mentioned, is not required for the service of the Government of India:

And whereas the Secretary of State in Council of India has agreed to sell to the Commissioners of Her Majesty's Works and Public Buildings (in this Act referred to as the Commissioners of Works), and the Commissioners of Works have agreed to buy the said portion of land described in the schedule to this Act for the sum of sixty-eight thousand six hundred pounds, to be paid out of moneys provided by Parliament:

And whereas it is expedient to provide as herein-after appearing for carrying into effect the said sale:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. THIS Act may be cited as the India Office (Sale of Superfluous Land) Act, 1881.

Transfer of site in Charles Street from Indian Secretary to Commissioners of Works.

2. As soon as the Commissioners of Works have paid into the Bank of England to the account of the Secretary of State in Council of India the sum of sixty-eight thousand six hundred pounds, the piece of land described in the schedule to this Act, and delineated on the plan deposited as in that schedule mentioned, shall be vested in the Commissioners of Works, and their successors and assigns, for all the estate and interest of Her Majesty therein, and all powers in relation to the said piece of land which, by the India Office Site and Approaches Act, 1865, are vested in Her Majesty, her heirs and successors, shall vest in the Commissioners of Works, their successors and assigns.

28 & 29 Vict. c. 32.

The Commissioners of Works shall hold the said piece of land for the public service in like manner as if it had been duly purchased by them under the Act of the fifteenth and sixteenth years of the reign of Her present Majesty, chapter twenty-eight, intituled "An Act to amend an Act of the "fourteenth and fifteenth years of Her present Majesty for the direction of "Public Works and Buildings, and to vest the buildings appropriated for "the accommodation of the Supreme Court of Justice in Edinburgh in the "Commissioners of Her Majesty's Works and Public Buildings."

Provided that in the event of the sale, exchange, or lease of the said piece of land, or any part thereof, it shall not be necessary for the person who purchases or takes the same in exchange or lease to ascertain that the direction of the Commissioners of Her Majesty's Treasury has been given to such purchase, exchange, or lease.

The receipt of one of Her Majesty's Principal Secretaries of State for the above-mentioned sum shall be recorded at the Queen's Remembrancer's office among the records of the High Court of Justice, and shall be conclusive evidence to any purchaser that the above sum was duly paid, and that the land became under this Act vested in the Commissioners of Works.

Land to continue subject to land tax.

3. SUCH portion of the piece of land described in the schedule to this Act as, at the time of the passing of this Act, is subject to land tax, shall continue liable thereto until duly discharged, but shall not be assessed to the land tax at a higher value than that at which such land was assessed at the time at which it was purchased in pursuance of the India Office Site and Approaches Act, 1865.

Exemption from operation of 18 & 19 Vict. c. 122.

4. ALL buildings erected on the land mentioned in the schedule to this Act by or under the direction of the Commissioners of Works shall be exempt from the operation of the Metropolitan Buildings Act, 1855, and any Act amending the same, whether passed before or after the passing of this Act, except so far as any future Act expressly negatives this section.

Disposition of moneys received for purchase.

5. ALL moneys received by the Secretary of State in Council of India in pursuance of this Act shall be applied as other moneys received from the sale

of land vested in Her Majesty for the service of the Government of India under the India Act, 1858, are by law applicable. 21 & 22 Vict. c. 106.

SCHEDULE.

All the piece of land, containing twenty-seven thousand four hundred and forty square feet, or thereabouts, situate in the parish of St. Margaret, in the city of Westminster, and abutting on the north on Charles Street, on the west on Delahay Street, on the south on Gardener's Lane, and on the east on land belonging to the Commissioners of Works, as the same land is delineated on a plan signed by the Right Honourable George John Shaw Lefevre, First Commissioner of Her Majesty's Works and Public Buildings, and by the Right Honourable Spencer Compton Cavendish, commonly called the Marquis of Hartington, one of Her Majesty's Principal Secretaries of State, and deposited at the Queen's Remembrancer's office among the records of Her Majesty's High Court of Justice, and coloured red on the said pan.

44 VICTORIA. A. D. 1881.

CHAPTER IX.

An Act to provide during twelve months for the Discipline and Regulation of the Army.

[*8th April 1881.*]

WHEREAS the raising or keeping a standing army within the United Kingdom of Great Britain and Ireland in time of peace, unless it be with the consent of Parliament, is against law:

And whereas it is adjudged necessary by Her Majesty, and this present Parliament, that a body of forces should be continued for the safety of the United Kingdom, and the defence of the possessions of Her Majesty's Crown, and that the whole number of such forces should consist of one hundred and thirty-four thousand and sixty men, including those to be employed at the depôts in the United Kingdom of Great Britain and Ireland for the training of recruits for service at home and abroad, but exclusive of the numbers actually serving within Her Majesty's Indian possessions:

And whereas it is also judged necessary for the safety of the United Kingdom, and the defence of the possessions of this realm, that a body of Royal Marine forces should be employed in Her Majesty's fleet and naval service, under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of the Lord High Admiral aforesaid:

And whereas the said marine forces may frequently be quartered or be on shore, or sent to do duty or be on board transport ships or merchant ships or vessels, or ships or vessels of Her Majesty, or other ships or vessels, or they may be under other circumstances in which they will not be subject to the laws relating to the government of Her Majesty's forces by sea:

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm by martial law, or in any other manner than by the judgment of his peers, and according to the known and established laws of this realm; yet nevertheless it being requisite, for the retaining all the before-mentioned forces, and other persons subject to military law, in their duty, that an exact discipline be observed, and that persons belonging to the said forces who mutiny or stir up sedition, or desert Her Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow:

42 & 43 Vict. c. 33.

And whereas the Army Discipline and Regulation Act, 1879, will expire—

(*a*) in the United Kingdom, the Channel Islands, and the Isle of Man, on the thirtieth day of April one thousand eight hundred and eighty-one; and

(*b*) elsewhere in Europe, inclusive of Malta, also in the West Indies and America, on the thirty-first day of July one thousand eight hundred and eighty-one; and

(*c*) elsewhere, whether within or without Her Majesty's dominions, on the thirty-first day of December one thousand eight hundred and eighty-one:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Army Discipline and Regulation (Annual) Act, 1881.

Army Discipline and Regulation Act (42 & 43 Vict. c. 33.) to be in force for specified times.

2. The Army Discipline and Regulation Act, 1879, shall be and remain in force during the periods herein-after mentioned, and no longer, unless otherwise provided by Parliament; that is to say,

(1) within the United Kingdom, the Channel Islands, and the Isle of Man, from the thirtieth day of April one thousand eight hundred and eighty-one to the thirtieth day of April one thousand eight hundred and eighty-two, both inclusive; and

(2) elsewhere in Europe, inclusive of Malta, also in the West Indies and America, from the thirty-first day of July one thousand eight

hundred and eighty-one to the thirty-first day of July one thousand eight hundred and eighty-two, both inclusive; and

(3) elsewhere, whether within or without Her Majesty's dominions, from the thirty-first day of December one thousand eight hundred and eighty-one to the thirty-first day of December one thousand eight hundred and eighty-two, both inclusive;

and the day from which the Army Discipline and Regulation Act, 1879, is continued in any place by this Act is in relation to that place referred to in this Act as the commencement of this Act.

The Army Discipline and Regulation Act, 1879, while in force shall apply to persons subject to military law, whether within or without Her Majesty's dominions. 42 & 43 Vict. c. 33.

A person subject to military law shall not be exempted from the provisions of the Army Discipline and Regulation Act, 1879, by reason only that the number of the forces for the time being in the service of Her Majesty, exclusive of the marine forces, is either greater or less than the number herein-before mentioned. 42 & 43 Vict. c. 33.

* * * * * * * * *

Amendments of Army Discipline and Regulation Act, 1879.

Summary punishments.

1. (1.) On and after the commencement of this Act, whereas a soldier on active service is guilty of an aggravated offence of drunkenness, or of an offence of disgraceful conduct, or of any offence punishable with death or penal servitude, it shall be lawful for a court-martial to award for that offence such summary punishment other than flogging as may be directed by rules to be made from time to time by one of Her Majesty's Principal Secretaries of State; and such summary punishment shall be of the character of personal restraint or of hard labour, but shall not be of a nature to cause injury to life or limb, and shall not be inflicted where the confirming officer is of opinion that imprisonment can with due regard to the public service be carried into execution.

(2.) The said summary punishment shall not be inflicted upon a non-commissioned officer, or upon a reduced non-commissioned officer, for any offence committed while holding the rank of non-commissioned officer.

(3.) "An aggravated offence of drunkenness" for the purposes of this section means drunkenness committed on the march or otherwise on duty, or after the offender was warned for duty, or when by reason of the drunkenness the offender was found unfit for duty; and notwithstanding anything contained in the Army Discipline and Regulation Act, 1879, it shall not be

incumbent on the commanding officer to deal summarily with such aggravated offence of drunkenness.

(4.) "An offence of disgraceful conduct," for the purposes of this section means any offence specified in section eighteen of the Army Discipline and Regulation Act, 1879.

(5.) For the purpose of commutation of punishment the summary punishment above mentioned shall be deemed to stand in the scale of punishment next below penal servitude.

(6.) Any punishment which may, in pursuance of the Army Discipline and Regulation Act, 1879, be awarded in addition to imprisonment, may also be awarded in addition to a summary punishment under this section.

Summary court-martial.

5. (1.) Where a person subject to military law and being on active service with any body of forces is charged, on and after the commencement of this Act, with an offence against the Army Discipline and Regulation Act, 1879, a summary court-martial may be convened and shall have jurisdiction to try such offence, if the officer convening the court is of opinion that an ordinary court-martial cannot, having due regard to the public service, be convened to try such offence.

(2.) A summary court-martial shall be convened and constituted, and the members and witnesses sworn, and its proceedings conducted, and its finding and sentence confirmed, in such manner as may be provided by this section and rules from time to time made in pursuance of the Army Discipline and Regulation Act, 1879, as amended by this Act; and sections fifty to fifty-four (both inclusive) of that Act shall not apply to such court-martial, provided that,—

(a) a summary court-martial shall consist of not less than three officers, unless the officer convening the same is of opinion that three officers are not available, having due regard to the public service, in which case the court-martial may consist of two officers; and

(b) where a summary court-martial consists of less than three officers the sentence shall not exceed such summary punishment as is allowed by this Act, or imprisonment; and

(c) a sentence of death or penal servitude awarded by a summary court-martial shall not be carried into effect unless and until it has been confirmed by the general or field officer commanding the force with which the prisoner is present at the date of his sentence.

Abolition of corporal punishment.

6. On and after the commencement of this Act there shall be repealed so much of the Army Discipline and Regulation Act, 1879, as prescribes corporal punishment for offences committed by persons subject to military law and convicted of such offences by court-martial; Also so much of section seventy-

two of the said Act as relates to held general courts-martial, without prejudice to anything done or suffered in pursuance of the said section, and the finding and sentence of any such court held before the commencement of this Act may be confirmed and carried into effect after such commencement.

Rules made in pursuance of this Act to be laid before Parliament.

7. All rules made in pursuance of this Act shall be laid before Parliament as soon as practicable after they are made, if Parliament be then sitting, and if Parliament be not then sitting, as soon as practicable after the beginning of the then next session of Parliament.

* * * * * * * * *

ADDENDUM.

18 & 19 VICTORIA. A. D. 1855.

CHAPTER XCI.

An Act to facilitate the Erection and Maintenance of Colonial Lighthouses, and otherwise to amend the Merchant Shipping Act, 1854.

[*14th August 1855.*]

WHEREAS it is expedient to make provision for facilitating the erection and maintenance of lighthouses in the British possessions abroad, and otherwise to amend the Merchant Shipping Act, 1854: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title of Act. 17 & 18 Vict. c. 104.

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1855," and shall be taken to be part of the Merchant Shipping Act, 1854, and shall be construed accordingly.

Colonial lighthouses.

Her Majesty may by Order in Council fix dues for colonial and light-houses.

2. In any case in which any light-house, buoy, or beacon has been or is hereafter erected or placed on or near the coasts or any British possession by or with the consent of the legislative authority of such possession, Her Majesty may, by Order in Council, fix such dues in respect thereof, to be paid by the owner or master of every ship which passes the same or derives benefit therefrom, as Her Majesty may deem reasonable, and may in like manner from time to time increase, diminish, or repeal such dues; and from the time specified in such order for the commencement of the dues thereby fixed, increased, or diminished, the same shall be leviable throughout Her Majesty's dominions, in manner herein-after mentioned.

No such dues to be levied in any colony without the consent of the colonial legislature.

3. No such dues as aforesaid shall be levied in any colony unless and until the legislative authority for such colony has, either by address to the Crown, or by an Act or ordinance duly passed, signified its opinion that the same ought to be levied in such colony.

Mode of collecting the said dues. 17 & 18 Vict. c. 104. ss. 395, 400, 401.

4. The said dues shall in the United Kingdom be collected by the same persons by whom and by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in, and subject to which the light dues leviable under the Merchant Shipping Act, 1854, are collected, and shall in each British possession abroad be collected by such persons as the governor of such possession abroad may appoint for the purpose, and shall be collected by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in, and subject to which the light dues leviable under the Merchant Shipping Act, 1854, are paid and collected, or to be paid and collected, in such other manner, and subject to such other conditions, as the legislative authority in such possession may direct.

Dues to be paid over to Her Majesty's Paymaster General.

5. All dues levied under this Act shall be paid over to Her Majesty's Paymaster General at such times and in such manner as the Board of Trade may direct, and shall be applied, paid,

Application of dues to lighthouses.

and dealt with by him, for the purposes hereinafter mentioned, in such manner as such Board may direct.

Dues to be applied to expenses of lighthouse, &c. for which they are levied.

8. The dues levied under the authority of this Act in respect of any such lighthouse, buoy, or beacon as aforesaid shall, after deducting any expenses incurred in collecting the same, be applied for the purpose of paying the expenses incurred in erecting and maintaining such lighthouse, buoy, or beacon, and for no other purpose whatever.

Power to borrow money on security of dues.
17 & 18 Vict. c. 104. ss. 424. 425. 426.

7. For the purpose of constructing or repairing any such lighthouse, buoy, or beacon as aforesaid, the Board of Trade may raise, upon the security of the dues to be levied in respect thereof, such sums of money as they may deem fit; and the Commissioners of Her Majesty's Treasury, out of any monies which may be provided by Parliament, the Public Works Loan Commissioners, or any other person or body of persons, may advance the same accordingly, such advances to be made in the same manner, with the same powers, and subject to the same provisions, so far as circumstances permit, in, with, and subject to which, under the Merchant Shipping Act, 1854, advances may be made upon the security of the mercantile marine fund for the construction and repair of lighthouses in the United Kingdom.

Accounts for each lighthouse, &c. to be kept, and laid before Parliament, and to be audited.
17 & 18 Vict. c. 104. s. 423.

8. Accounts shall be kept of all sums expended in the construction, repair, or maintenance of every lighthouse, buoy, or beacon in the British possessions abroad for which dues are levied under the authority of this Act, and of the dues received in respect thereof, in such manner as the Board of Trade may direct, and shall be laid before Parliament annually; and the said accounts shall be audited in such manner as Her Majesty may by Order in Council direct.

Penalty on false declarations touching registry.
Part II. of Merchant Shipping Act, 1854.
17 & 18 Vict. c. 104. s. 103.

9. Any person who in any declaration made in the presence of or produced to any registrar of shipping in pursuance of the second part of the Merchant Shipping Act, 1854, or in any documents or other evidence produced to such registrar, wilfully makes or assists in making or procures to be made any false statement concerning the title to or the ownership of or the interests existing in any ship or any share or shares in any ship, or otherwise, produces, or makes use of any declaration or document containing any such false statement, knowing the same to be false, shall be guilty of a misdemeanor.

Shares in ships registered under Merchant Shipping Act, 1854, to be deemed stock under Trustee Act, 1850.
13 & 14 Vict. c. 60.

10. Shares in ships registered under the said Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock," as defined by the Trustee Act, 1850, and the provisions of such last-mentioned Act shall be applicable to such shares accordingly.

Forms of instruments.
17 & 18 Vict. c. 104. s. 19.

11. In any case in which any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or any share or shares therein or of any interest therein is made in any form or contains any particulars other than the form and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no registrar shall be required to record the same without the express direction of the Commissioners of Her Majesty's Customs.

Delivery of certificate upon transfer of registry.
17 & 18 Vict. c. 104. s. 69.

12. Upon the transfer of the registry of a ship from one port to another, the certificate of registry required by the nineteenth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose may be delivered up to the registrar of either of such ports.

Ships may be measured under

13. The owner of any ship which is measured under Rule II. contained in the twenty-

second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the Commissioners of Customs to have the said ship remeasured under Rule I. contained in the twenty-first section of the same Act, and the said Commissioners may thereupon, and upon payment of such fee, not exceeding seven shillings and sixpence for each transverse section, as they may authorize, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly.

Registry of ships.

Rule II. may be measured under Rule I. 17 & 18 Vict. c. 104, ss. 21 and 22.

15. The copy or transcript of the register of any British ship which is kept by the Chief Registrar of Shipping at the Custom House in London, or by the Registrar General of Seamen, under the direction of Her Majesty's Commissioners of Customs, or of the Board of Trade shall have the same effect, to all intents and purposes, as the original register of which the same is a copy or transcript.

General register books in London. 17 & 18 Vict. c. 104, s. 107.

16. The Board of Trade may issue instructions concerning the relief to be administered to distressed seamen and apprentices, in pursuance of the two hundred and eleventh and two hundred and twelfth sections of the Merchant Shipping Act, 1854, and may by such instructions determine in what cases and under what circumstances and conditions such relief is to be administered; and all powers of recovering expenses incurred with respect to distressed seamen and apprentices, which by the two hundred and thirteenth section of the said Act are given to the Board of Trade, shall extend to all expenses incurred by any foreign government for the purposes aforesaid, and repaid to such government by Her Majesty's Government, and shall likewise extend to any expenses incurred by the conveying home such seamen or apprentices in foreign as well as British ships; and all provisions concerning the relief of distressed seamen and apprentices, being subjects of Her Majesty, which are contained in the said sections of the said Act, and in this section, shall extend to such seamen and apprentices, not being subjects of Her Majesty, as are reduced to distress in foreign parts by reason of their having been shipwrecked, discharged, or left behind from any British ship; subject nevertheless to such modifications and directions concerning the cases in which relief is to be given to such foreigners, and the country to which they are to be sent, as the Board of Trade may, under the circumstances, think fit to make and issue.

Masters and seamen.

Part III of Merchant Shipping Act, 1854.

Extension of provisions concerning the relief of destitute seamen. 17 & 18 Vict. c. 104, ss. 211, 212, and 213.

17. The enactment of the Merchant Shipping Act, 1854, relating to savings banks shall apply to all seamen, and to their wives and families, whether such seamen belong to the royal navy or to the merchant service, or to any other sea service.

Enactment concerning savings banks extended to seamen in the Navy. 17 & 18 Vict. c. 104, s. 180.

18. Any naval court summoned under the provisions of the Merchant Shipping Act, 1854, to hear any complaint touching the conduct of the master or any of the crew of any ship, shall, in addition to the powers given to it by the said Act, have power to try the said master or any of the said crew for any offences against the Merchant Shipping Act, 1854, in respect of which two justices would, if the case were tried in the United Kingdom, have power to convict summarily, and by order duly made to inflict the same punishments for such offences which two justices might in the case aforesaid inflict upon summary conviction: Provided, that in cases where an offender is sentenced to imprisonment, the sentence shall be confirmed in writing by the senior naval or consular officer present at the place where the court is held, and the place of imprisonment, whether on land or on board ship, shall be approved by him as a proper place for the purpose; and copies of all sentences made by any naval court summoned to hear any such complaint as aforesaid shall be sent to the commander-in-chief or senior naval officer of the station.

Additional powers of naval courts. 17 & 18 Vict. c. 104, ss. 260 to 265.

Wrecks, casualties and salvage.

PART VIII of Merchant Shipping Act, 1854.

In case of wreck of foreign ships consul general to be deemed agent of owner.

Remuneration for services by coast guard.

19. WHENEVER any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of the United Kingdom, or belonging to or forming part of the cargo thereof, are found on or near such coasts, or are brought into any port in the United Kingdom, the consul general of the country to which such ship or the owners of such cargo may have belonged, or any consular officer of such country authorized in that behalf by any treaty or agreement with such country, shall in the absence of the owner of such ship or articles, and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of such articles.

20. IN cases where services are rendered by officers or men of the coast guard service in watching or protecting shipwrecked property, then, unless it can be shown that such services have been declined by the owner of such property or his agent at the time they were rendered, or that salvage has been claimed and awarded for such services, the owner of the shipwrecked property shall pay in respect of the said services remuneration according to a scale to be fixed by the Board of Trade: so, however, that such scale shall not exceed any scale by which payment to officers and men of the coast guard for extra duties in the ordinary service of the Commissioners of Customs is for the time being regulated; and such remuneration shall be recoverable by the same means, and shall be paid to the same persons, and accounted for and applied in the same manner, as fees received by receivers appointed under the Merchant Shipping Act, 1854.

Legal procedure.

PART X of Merchant Shipping Act, 1854. Jurisdiction in case of offences on board ship.

21. IF any person, being a British subject, charged with having committed any crime or offence on board any British ship on the high seas or in any foreign port or harbour, or if any person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offences had been committed within such limits: Provided, that nothing contained in this section shall be construed to alter or interfere with the Act of the fourteenth year of Her present Majesty, chapter ninety-six.

Protection of seamen.

PART XI of Merchant Shipping Act, 1854.

Relief of destitute Lascars.

22. IT shall be the duty of the East India Company to take charge of and send home or otherwise provide for all persons, being lascars or other natives of the territories under the government of the said Company, who are found destitute in the United Kingdom; and if any such person is relieved and maintained by any guardians, overseers, or other persons administering the relief of the poor, such overseers, guardians, or other persons may, by letter sent through the post or otherwise, give notice thereof in writing to the secretary of the Court of Directors of the East India Company, specifying, so far as is practicable, the following particulars; (*viz.*)—

1. The name of the person so relieved or maintained:
2. The presidency or district or part of the territories of the East India Company of which he professes to be a native:
3. The name of the ship in which he was brought to the United Kingdom:
4. The port or place abroad from which such ship sailed, and the port or place in the United Kingdom at which such ship arrived, when he was so brought to the United Kingdom, and the time of such arrival:

And the said East India Company shall repay to the said overseers, guardians, or other persons, out of the revenues of the said Company, all monies duly expended by them in relieving

or maintaining such destitute person after the time at which such notice aforesaid is sent or otherwise given.

Miscellaneous.

Contracts may be made with natives in India, under certain conditions, binding them to go to the United Kingdom, and then to serve in other ships back to India or elsewhere.

23. It shall be lawful for any master or owner of a ship or his agent to enter into agreements with Lascars or natives of the territories of the East India Company, binding them to proceed to any port or ports in the United Kingdom, either as seamen or as passengers, and there to enter into a further agreement to serve as seamen in any ship which may happen to be there, and to be bound to any port in the territories of the East India Company: Provided, that every such original agreement shall be made in such form, and shall contain such provisions, and shall be executed in such manner, and under such conditions for securing the return of such Lascars or natives to their own country, and for other purposes, as the Governor General of India in Council, or the Governors of the respective presidencies to which the original agreement is made, in Council, may direct; and if any Lascar or other person who has bound himself by any such original agreement is, on arriving in the United Kingdom, required to enter into a further agreement to serve as a seaman in any ship bound to any port in the territories of the East India Company, and if it is certified by some officer appointed for that purpose by the East India Company that such further agreement is a proper agreement in all respects for such Lascar or other person to enter into, and is in accordance with the original agreement, and that the ship to which such further agreement relates is in all respects a proper ship for such Lascar or other person to serve in, and that there is not, in the opinion of such officer, any objection to the full performance of the said original agreement, such Lascar or other person shall be deemed to be engaged under such further agreement, and to serve as a seaman in the ship to which it relates, and shall thereupon be deemed to be for all purposes one of the crew of the ship; and for every Lascar or other person in respect of whom such certificate is applied for, the person applying for the same shall pay to such officer as aforesaid such fee as the East India Company may appoint, not exceeding ten shillings.

Saving of former enactments. 1 Geo. 4 c. 30 ss. 25 to 34. 17 & 18 Vict. c. 120 s. 16.

24. Nothing herein contained shall be deemed to repeal or affect any provisions contained in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, or thirty-fourth sections of the Act of the fourth year of King George the Fourth, chapter sixty, or in the sixteenth section of the Act of the eighteenth year of Her present Majesty, chapter one hundred and twenty.

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